

20090727-5009 FERC PDF (Unofficial) 7/24/2009 6:24:09 PM

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**Save Passamaquoddy Bay**  
A 3-Nation Alliance  
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Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2009 July 24

**Re: Docket Nos. CP07-52-000, CP07-53-000 & CP07-53-001 — Downeast LNG**

Dear Ms. Bose,

This Comment references the 2009 July 6 FERC-imposed Comment Deadline for the Downeast LNG (DeLNG) Draft Environmental Impact Statement (DEIS), and related inequities.

NA5-1

Downeast LNG knew that it was to supply information to FERC by the end of the DEIS Comment Period. They also knew they could not meet that deadline, but withheld that knowledge until the end of the Comment Period. In addition, DeLNG objected to Save Passamaquoddy Bay's request to expand the Comment Period, thus aggravating FERC's tacit denial of SPB's request to extend the Comment Period.

Not only did DeLNG fail to meet the deadline, but they ***instructed*** FERC that they would need 2–3 months ***after they obtain the information*** to supply certain information FERC required. **Plus** — since the Maine Board of Environmental Protection permitting takes around a year — in essence, ***DeLNG indicated it will take an additional year, or more, to provide other information FERC required by July 6.***

A double standard has been applied by FERC: the applicant is being permitted to abuse the deadline, while the public was expected to adhere to it. The damage to the public has already been done.

NA5-2

**Allowing DeLNG to violate this deadline with impunity violates the public interest, since:**

- 1) The public had no opportunity to comment on the information DeLNG should have supplied, and there is no assurance the public ever will have that opportunity prior to the Final EIS;
- 2) The public was denied more thorough consideration of the DEIS, even while the applicant was allowed to violate the deadline.

NA5-1 FERC's decision not to extend the public comment period was a logistic one, unrelated to the additional information requested from the applicant. Even though the formal comment period was not extended, we make every effort to respond to comments received up to the production of the final EIS. If the applicant's responses to our conditions are deficient, the Commission may elect to include conditions in its Order requiring that Downeast provide the information. The state permitting process occurs outside of the NEPA process and FERC is not bound by that process; therefore, we cannot address the commenter's speculation as to the length of the state process.

NA5-2 See response to Comment NA5-1. The Commission's process did not preclude the public from commenting on the draft EIS or any new information provided by the applicant. The applicant's submittals in response to the FERC staff's recommendations are posted on eLibrary and are available for public viewing on the FERC's website. Comments on that information are encouraged, and we make every effort to respond to comments received up to the production of the final EIS.

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When Quoddy Bay LNG (QBLNG; CP07-35, CP07-36, CP07-37, and CP07-38) did not supply FERC with requested information for a year, FERC dismissed the applicant from the permitting process. DeLNG has essentially indicated it will not supply FERC with the required information **until approximately another year has passed beyond the 2009 July 6 deadline.**

NA5-3

FERC has been informed in advance that DeLNG will abuse the deadline for approximately an additional year. FERC now has the opportunity to save taxpayers, federal agencies, state agencies, and the public a waste of time and resources. As with QBLNG, **it is similarly appropriate for FERC to immediately dismiss DeLNG from the application process.**

Barring dismissal, in order to satisfy NEPA and Environmental Justice requirements, and the public interest, we believe FERC should:

NA5-4

- 1) Re-craft the DEIS to:
  - a) Include all information DeLNG omitted from the July 6 deadline;
  - b) Address the numerous and broad DEIS flaws and shortcomings described in our — and others' — previous Comments; and
- 2) Reschedule a follow-on DEIS Comment Period and publication.

Accordingly, we believe FERC must then also reschedule:

- 1) The Final EIS publication date; and
- 2) The Commission's permitting decision.

Very truly,

/s/ Robert Godfrey  
Researcher & Webmaster

NA5-3 In April 2008 the Commission notified Quoddy Bay that it was suspending review of the Quoddy Bay LNG Import Project pending receipt of requested information. Quoddy Bay provided no response to that notification, therefore in October 2008 the Commission suspended its review of the Quoddy Bay application. Conversely, Downeast has continued to provide a response to all information requests, and if certain information was not included in a response, Downeast has provided an explanation for the lack of information.

NA5-4 A Supplemental Draft EIS was issued on March 28, 2013 which consisted of a revised safety and security analysis only. This final EIS includes all information submitted by the applicant since issuance of the draft EIS and addresses all comments received to date.

NA6



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888 First Street, NE Room 1A  
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eFiled on 2009 September 15

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000 and CP07-53-001**

Dear Ms. Bose,

I am concerned about safety of the large numbers of whales that have been frequenting the mouth of Head Harbour Passage, into Head Harbour Passage, and farther into Passamaquoddy Bay.

The two attached files are recent newspaper articles covering this phenomenon. They indicate there have been more whales observed at these locations this summer than for several decades. This may indicate a change in water current patterns or in feed stock behavior. Whatever the cause, it is attracting several species of whales — including as many as 40 endangered north Atlantic right whales — close to shore **exactly in the shipping fairway** that would be used by LNG carriers for this project.

I am concerned that FERC may not be adequately protecting these marine mammals from ship strikes related to this LNG project as is required by law.

Very truly,

/s/Robert Godfrey  
researcher and webmaster

NA6-1

NA6-1 As required by the section 7 of the Endangered Species Act, we developed our analysis of effects and mitigations for federally protected whales in our Biological Assessment, which was appended to our draft EIS and provided to the FWS and NOAA Fisheries for their review and comment. We submitted a revised BA to the FWS and NOAA Fisheries in June 2012. The FWS and NOAA Fisheries will prepare Biological Opinions, determining whether or not the federal actions associated with this project would likely jeopardize the continued existence of a listed species, or result in the destruction or adverse modification of designated critical habitat. Downeast has proposed specific measures to minimize potential impact on whales during construction and operation of its proposed project. Our revised BA and final EIS incorporates these proposed measures. The attachments to this comment letter are not included in this appendix of the final EIS. They are available for review on the FERC's website under docket number CP07-52 (accession number 20090916-5006).

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November 24, 2009


Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

**Re: Additional Comments re: Downeast LNG Facility  
Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001**

Ms. Bose,

On behalf of Three-Nation Alliance, please find attached for submission in the above-mentioned dockets:

1. A Motion of Three-Nation Alliance requesting that the Commission reject Downeast LNG's August 21, 2009 Revised Purpose and Need Statement or, in the alternative, accept and consider Three-Nation Alliance's Additional Comments of Dr. Howard J. Axelrod.
2. Additional Comments of Dr. Howard J. Axelrod, BSEE, MSCE, MBA, Ph.D, which respond to the applicant's "Revised Project Purpose and Need Statement," dated August 21, 2009, Accession Number 20090821-5025.
3. Additional Comments of Dr. J E S Venart, PE, PhD, which respond to the applicant's submission in response to Data Request No. 12, including Thermal Radiation and Vapor Dispersion Calculations, dated October 29, 2009, Accession Number 20091029-5075.

November 24, 2009 By: 

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Attorneys for Save Passamaquoddy Bay-U.S., Save  
Passamaquoddy Bay-Canada, and Nulankyutomonen  
Nkihtahkomikumon (Collectively, "Three-Nation  
Alliance")



NA7

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Re: Downeast LNG, Inc., )  
Downeast Pipeline, LLC ) Docket Nos. CP07-52-000;  
 ) CP07-53-000; CP07-53-001  
 )

MOTION TO REJECT DOWNEAST LNG'S  
REVISED STATEMENT OF PURPOSE AND NEED AS LATE  
OR, IN THE ALTERNATIVE,  
ACCEPT AS PUBLIC COMMENT THE REPORT OF DR. HOWARD J. AXELROD  
ON BEHALF OF INTERVENERS  
NULANKEYUTOMONEN NIKHTAHKOMIKUMON; SAVE PASSAMAQUODDY BAY-  
CANADA, INC.; AND SAVE PASSAMAQUODDY BAY-U.S.  
(TOGETHER: "THREE-NATION ALLIANCE")

Pursuant to 18 C.F.R. § 385.212, Interveners *Nulankeyutomonen Nikhtahkomikumon* (We Take Care of Our Land), Save Passamaquoddy Bay-Canada, Inc., and Save Passamaquoddy Bay-U.S. ("Three-Nation Alliance") hereby request that the Commission reject Downeast LNG and Downeast Pipeline's "Revised Statement of Purpose and Need" filed on August 21, 2009, Accession Number 20090821-5025. Downeast LNG's Revised Statement of Purpose and Need is late and deprives Three-Nation Alliance of the opportunity to provide timely public comment. In the alternative, Three-Nation Alliance requests that the Commission accept and consider Three-Nation Alliance's additional comments, filed today, which are responsive to Downeast LNG's late Revised Statement.

FERC's Draft Environmental Impact Statement (DEIS) was issued in May, 2009. The deadline for comment on the DEIS was set for July 6, 2009. Several comments filed in the docket – including those by Three-Nation Alliance – identified significant gaps and insufficiencies with the DEIS purpose and need analysis.

NA7

On August 21, 2009, weeks after the July 6 comment deadline and years after filing its application, Downeast LNG submitted a “Revised Statement of Purpose and Need.” Respectfully, Downeast LNG’s transparent attempt to backfill the long-standing gaps in its purpose and need statement should be rejected. It is the applicant’s responsibility to submit ample information in support of project purpose and need *with its application*. Further, purpose and need is integral to NEPA and must be part of any DEIS. 40 C.F.R. §§ 1502.9; 1502.10(d); 18 C.F.R. §§ 380.6(a)(1); 380.2(e). Downeast LNG’s wholesale revisions to its purpose and need statement made after the public’s ability to comment on the DEIS is prejudicial to Three-Nation Alliance and other participants in the NEPA process who have already invested significant time and money in submitting comments.<sup>1</sup> The purpose of the comment period is to allow the public to react to the DEIS.

NA7-1

Because the public is deprived of the opportunity to comment in a timely manner when an applicant’s late filings are allowed and considered, the dilatory actions of applicants should not be rewarded by foreclosing public participation in the NEPA process. Therefore, if the Commission decides to accept Downeast LNG’s late purpose-and-need filing, respectfully, it should also accept and consider Three-Nation Alliance’s responsive report. That report, authored by Dr. Howard J. Axelrod and filed today, concludes that there is no need for Downeast LNG.

NA7-2

WHEREFORE, in consideration of the foregoing, the Three-Nation Alliance respectfully requests that the Commission accept the filing of Three-Nation Alliance submitted on this date in response to Downeast LNG’s Revised Purpose and Need Statement, or reject as late and not consider Downeast LNG’s August 21, 2009 submission in this docket.

<sup>1</sup> Three-Nation Alliance, comprised of citizens of ordinary means whose lives would be significantly affected by a license issued to Downeast LNG, has been prejudiced by having to fund and file this second round of comments.

NA7-1 We do not believe that Downeast’s “Revised Statement of Purpose and Need” (submitted under accession number 20090821-5025) is prejudicial to the Three-Nation Alliance and other participants in the NEPA process. Downeast stated in its application that the purpose of the project is to establish an LNG marine terminal in New England capable of receiving imported LNG from LNG vessels, storing, and regasifying the LNG to provide an additional supply source of natural gas to the New England region. This stated purpose and need has not changed as a result of Downeast’s submittal. Downeast’s “Revised Statement of Purpose and Need” updates the information provided in its application and responds to relevant comments on the draft EIS.

The FERC staff is not the proponent of the proposed project, and therefore does not define the project purpose and need. The purpose is defined by Downeast, and FERC staff uses the proponent’s stated purpose in the project EIS. The purpose and need statement in the EIS serves as a disclosure of the applicant’s stated purpose to which the FERC is responding. The CEQ regulations for implementing the NEPA (at 40 CFR 1502.13) only require that the EIS “briefly specify the underlying purpose and need to which the agency is responding....” Ultimately, it is the market that determines whether or not the project is constructed.

We believe the comment period provided adequate time for stakeholders to review and comment on the draft EIS for the Downeast LNG Project. The comment period is part of the approval process required by CEQ regulations for implementing NEPA to consolidate comments on the draft EIS; however, it does not preclude commenters from submitting their comments at any time during the process. We make every effort to respond to comments received up to the production of the final EIS.

NA7-2 See response to comments NA5-1 and NA5-2. We make every effort to review and consider all comments received on the draft EIS and Downeast’s submittals up to the production of the final EIS.

NA7

November 24, 2009

Nulankeyutomonen Nkhitahkomikumon  
Save Passamaquoddy Bay-Canada, Inc.  
Save Passamaquoddy Bay-U.S.

By: /S/  
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2009

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**Comments of Dr. Howard J. Axelrod  
Energy Strategies, Inc.**

**In Response to  
Downeast LNG's Revised Purpose and  
Need Statement  
Filed August 21, 2009  
Accession Number 20090821-5025**

Prepared by Howard J. Axelrod, PhD  
Energy Strategies, Inc.  
11/17/2009

NA7

Dr. Howard J. Axelrod  
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November 17, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001

**Comments of Dr. Howard J. Axelrod  
Energy Strategies, Inc.**

**In Response to  
Downeast LNG's Revised Purpose and Need Statement  
Filed August 21, 2009  
Accession Number 20090821-5025**

These comments are a result of my review of Downeast LNG's August 21, 2009 Revised Project Purpose and Need Statement, Accession Number 20090821-5025 in Docket Nos. CCP07-52-000, CP07-53-000, and CP07-53-001. I provide these comments on behalf of Three-Nation Alliance (Save Passamaquoddy Bay-U.S., Save Passamaquoddy Bay-Canada, Inc., and Nulankeyutomonon Nkihtahkomikumon) and its individual members / interveners.

I submitted comments previously as part of the Three-Nation Alliance July 6, 2009 Comments on FERC's Draft Environmental Impact Statement, Accession Numbers 20090706-5123, 20090707-5003, 20090707-5021, 20090707-5022, 20090707-5023. My resume is attached.

**Summary Statement of Key Findings**

These comments respond to Downeast LNG's August 21, 2009 Revised Project Purpose and Need Statement, which attempts to bolster the argument that the Project is needed. Many comments on the Draft Environmental Impact Statement, including mine, addressed the issue of need for the Downeast LNG Project. Downeast LNG's Revised Purpose and Need Statement responded to those comments.

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The purpose of these comments is to demonstrate that Downeast LNG's Project is not needed to meet the demands of the New England energy markets.

The Updated Annual Energy Outlook 2009, issued by the Energy Information Administration ("EIA") in April, 2009, shows no need for Downeast LNG. The EIA is the independent, analytical arm of the U.S. Department of Energy, the very function and purpose of which is to provide objective analysis and projections. It is the most reliable, unbiased source of natural gas market information available. The Commission has historically relied upon the EIA and, respectfully, should not now depart from that sound practice. Instead of indicating need for increased natural gas supply capacity, EIA's Updated Annual Energy Outlook 2009 predicts significant surplus gas supply capacity for the next two decades, without the Downeast LNG Project. Downeast LNG's August 21, 2009 filing is primarily geared toward challenging the EIA's conclusions on this critical issue, in an apparent effort to dispute the predominant authority of the EIA Updated 2009 Annual Energy Outlook. The Applicant clearly disagrees with the EIA's balanced evaluation of natural gas need, but its efforts to avoid and discredit this agency's objective analysis is misplaced and falls flat.

Downeast LNG's Revised Purpose and Need Statement also fails to consider the exploration and production of new domestic gas supplies, including production from the Marcellus Shale in New York, Pennsylvania and West Virginia. Domestic shale as a major gas supply source is a relatively new phenomenon – driven by new developments in drilling technology and rising wellhead prices of gas – largely unanticipated by projections issued any earlier than a couple of years ago. Production of gas from Marcellus Shale is already underway and expanding, and will continue to undergo significant expansion in coming years. Marcellus Shale represents a significant source of domestic natural gas that will help serve the Northeast markets.

Demand for natural gas in New England will also be offset by the rising supply of renewable resources and energy management. Downeast LNG is incorrect in its statement that recent trends in renewable resource development are a sign of failure. Further, ISO-New England warns against over-reliance on LNG. In addition, Downeast LNG's comparison of the EIA's short-term energy outlook to the long-range outlook is unreliable because it represents a lack of understanding of the difference between short- and long-range forecasting. Finally,

NA7-3

NA7-3 See response to Motion NA7-1. We understand there are differing views regarding the need for the Downeast LNG Project. However, purpose and need are not environmental issues that have to be addressed at length in the EIS to justify the project. An applicant proposes a project and presents its objectives; the FERC staff reviews the proposal and evaluates the environmental impacts of the project, including producing an environmental document to satisfy the NEPA. The FERC staff believes that the Downeast LNG Project, with the implementation of Downeast's mitigation measures and the additional measures recommended by FERC staff, would be an environmentally acceptable action. The Commission may authorize the Downeast LNG Project if it determines the project is in the public interest.

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Downeast's continued argument that its LNG facility is required to meet the growing demand for natural gas in New England is based on unfounded assumptions and is therefore faulty.

**Argument 1: The EIA Long-Range Annual Energy Outlook, which remains the best source for an unbiased assessment of energy supply/demand for the United States and New England, shows no need for Downeast LNG.**

There is no question that prognosticating the long-range energy needs of the United States is no small task. The U.S. economy remains the largest in the world and is the largest energy consumer as well. Dependence on foreign resources has made forecasting highly uncertain as price, availability, and reliability are significant unknowns. With substantial dollars at stake as to what energy path will or should be taken, the long-range energy outlook can be presented in a number of ways depending upon the perspective of the analyst.

It is my opinion, after over 40 years in the energy field, that the EIA's Annual Energy Outlook provides the only established, nationally-recognized objective assessment of the United States' energy supply-and-demand forecast. The EIA was specifically created to provide an unbiased and objective assessment of the nation's energy portfolio and market analysis. According to its mission statement:

The mission of the Energy Information Administration (EIA) is to provide policy-neutral data, forecasts, and analyses to promote sound policy making, efficient markets, and public understanding regarding energy and its interaction with the economy and the environment. Created by the Congress in 1977, EIA is the statistical agency of the U.S. Department of Energy and as such is the Nation's premier source of unbiased energy data, analysis and forecasting. By law, EIA's products are prepared independently of Administration policy considerations. EIA neither formulates nor advocates any policy conclusions.<sup>1</sup>

FERC has often relied upon EIA data and cited the importance, authority, and relevance of that data in its decisions. FERC orders approving LNG terminals have relied on EIA data. See, e.g., *AES Sparrows Point, LLC*, 126 FERC ¶ 61,019, at 25 & n.19 (2009) (citing Final Environmental Impact Statement's analysis based on EIA's Annual Energy Outlook for 2006 and 2008); see also *Broadwater Energy LLC*, 122 FERC ¶ 61,255, at 31 (2008). FERC has also

<sup>1</sup> EIA Mission Statement, available at [http://tonto.eia.doe.gov/abouteia/mission\\_overview.cfm](http://tonto.eia.doe.gov/abouteia/mission_overview.cfm).

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relied on EIA data regarding interstate natural gas pipeline capacity and natural gas demand in rulemakings and pipeline certificate cases. See, e.g., *Pipeline Posting Requirements under Section 23 of the Natural Gas Act*, Order No. 720, FERC Stats. & Regs. ¶ 31,283, at 41 & nn. 87, 88 (2008); *Transparency Provisions of Section 23 of the Natural Gas Act, order on reh'g*, Order No. 704-A, FERC Stats. & Regs. ¶ 31,275, at 36 (2008); *Millennium Pipeline Co.*, 117 FERC ¶ 61,319, at 100 & n.48 (2006).

The EIA's Annual Energy Outlook is updated each year. An executive summary is released in December and the final report by March of the following year. In 2009, the EIA took a highly unusual step by updating the 2009 Energy Outlook in April, one month after publication of the final report. The purpose of the Updated Annual Energy Outlook 2009 was to address both the dramatic changes in the economic climate and the American Recovery and Reinvestment Act, which added significant incentives for renewable energy supplies and accelerated energy conservation and management investments. The following is EIA's explanation of why it updated the Annual Energy Outlook just one month after its official release in March 2009.

The *Annual Energy Outlook 2009* (AEO2009) reference case was updated to reflect the provisions of the American Recovery and Reinvestment Act (ARRA) that were enacted in mid-February 2009. The reference case in the recently published *AEO2009*, which reflected laws and regulations in effect as of November 2008, does not include ARRA. The need to develop an updated reference case following the passage of ARRA also provided the Energy Information Administration (EIA) with an opportunity to update the macroeconomic outlook for the United States and global economies, which has been changing at an unusually rapid rate in recent months. Therefore, the difference between the recently published *AEO2009* reference case and the updated reference case incorporating both ARRA and the updated economic forecast reflects more than the energy-related provisions in ARRA alone. Although future analyses will focus on the difference between the updated reference case and cases using that as a baseline and incorporating proposed changes in laws and regulations, users of EIA's projections may want to understand the relative roles of ARRA and the change in the macroeconomic outlook in driving the difference between the updated reference case and the one presented in *AEO2009*.<sup>2</sup>

To date, there have been no additional updates or revisions to the Updated Annual Energy Outlook 2009 issued in April.

<sup>2</sup> <http://www.eia.doe.gov/oiat/neo/>



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EIA's independent, policy-neutral projections show – and plainly – that there is no need for Downeast LNG. According to the EIA Updated Annual Energy Outlook 2009, New England's projected natural gas supply capacity – based on known supply additions to New England and not including any additional capacity to be provided by Downeast LNG – shows a significant surplus capacity. That surplus capacity will skyrocket from just over 10% in 2008 to 40% by 2012. Most of the remaining period until 2030 shows a surplus range of 25 – 30 percent. Total natural gas consumption is actually expected to decline from approximately .8 TCF in 2009 to .67 TCF in 2014, to rise back only to .8 TCF by 2030.<sup>3</sup>

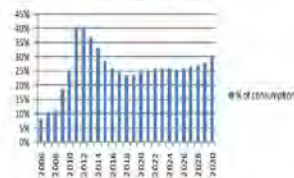
Far from contributing to energy solutions, Downeast LNG would add only needless energy infrastructure that would sit unused. FERC should continue to rely upon the EIA as it has in the past. Especially now – when EIA in an unprecedented move updated its annual report mid-year – it would be particularly unusual for FERC to depart from its regular reliance on EIA data and analysis. There is no need for Downeast LNG.

Furthermore, upon closer analysis, it becomes apparent that sources relied upon by Downeast LNG to reject the EIA Updated Annual Energy Outlook 2009 are outdated. The Wood Mackenzie 2008 report "Natural Gas Market Outlook" has been effectively supplanted by Wood Mackenzie's own increasingly pessimistic public statements about LNG since late 2008. Indeed, Wood Mackenzie's changing outlook corresponds to the changes in the EIA Updated Annual Energy Outlook 2009 over the same period of time:

- November 26, 2008: Jean Snyder, head of Wood Mackenzie North American Gas Research, told Platts LNG Daily that she expects LNG import to the United States to continue to increase over the next several years because cargos under existing supply agreements are expensive to divert and

<sup>3</sup> EIA, Updated Annual Energy Outlook 2009 Table 117, "Natural Gas Consumption by End-Use Sector and Census Division (An Updated Reference Case Reflecting Provisions of the American Recovery and Reinvestment Act)"

Surplus Supply as a % of Consumption



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LNG suppliers will send some gas to North America in order to keep LNG prices in Europe and Asia relatively high.<sup>4</sup>

- January 15, 2009: Murray Douglas, North American LNG Analyst at Wood Mackenzie says: "In light of recent history, and the longer term outlook for growth in domestic US shale gas, many industry analysts and commentators have been suggesting that the outlook for LNG imports into North America is bleak. **While it is fair to say that regas capacity has undoubtedly been overbuilt, the medium-term outlook for LNG in North America** is not as dire as other commentators are suggesting, despite the success in developing shale gas."<sup>5</sup> (Emphasis added.)
- October 5, 2009: Frank Harris, analyst at Wood Mackenzie, admits that he has had to trim forecast for US LNG import for the past two years. "The day of developing an LNG project in Africa on the assumption that volumes could always go to the US, and get a (price) that made the economics work, look to have gone," he says.<sup>6</sup>

In sum, EIA is the most independent, policy-neutral source of energy market analysis, and Downeast LNG advances no compelling reason to depart from this source.<sup>7</sup>

<sup>4</sup> "Wood Mackenzie: U.S. LNG Imports Likely to Increase Despite Relatively Low Natural Gas Prices," Sutherland LNG Law Blog, at [www.lnglawblog.com](http://www.lnglawblog.com).

<sup>5</sup> Wood Mackenzie press release, *Wood Mackenzie predicts rise in North American LNG imports*, January 15, 2009 at <http://www.woodmacresearch.com/cgi-bin/corp/portal/corp/corp/pressDetail.jsp?oid=1187798>

<sup>6</sup> Plunging Demand, Price Volatility, Financial Times Special Edition on Gas Industry, October 5, 2009.

<sup>7</sup> Downeast LNG's reliance upon the Schlesinger 2008 report also has shortcomings. While this 2008 report does forecast a growing demand for LNG in the long run, its first two findings paint a far less rosy picture than were referenced by Downeast LNG:

1. U.S. LNG imports in late 2007 and through mid-year 2008 have been less than 50% of earlier periods as a result of stronger year-on-year demand in Europe, particularly Spain, and cargo diversions from the Atlantic Basin to Asia. These diversions, many at exceptionally high prices, have been needed to offset supply shortfalls caused by startup delays in Pacific basin supply projects, production declines in Indonesia, and increased demand in Japan due to the shutdown of a major nuclear facility following the July 2007 earthquake.
2. In the short term, until worldwide LNG supplies increase more substantially and U.S. demand requirements increase as projected, the study shows relatively little LNG headed toward this country. The high, albeit volatile, level of U.S. natural gas prices makes shale and other domestic unconventional gas supplies economic. The development of these unconventional supplies will enable the U.S. to meet demand as LNG goes to other markets.

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**Argument 2: Exploration and production of new domestic supplies, including Marcellus Shale gas, is already underway, represents a significant source of domestic natural gas for the Northeast markets, and renders Downeast LNG obsolete.**

Marcellus Shale is perhaps the most significant source of new gas for the Northeast and New England – and recognized as such only very recently. Marcellus Shale is located in New York, Pennsylvania, and West Virginia, and, with the advancement in shale gas extraction technologies, as much as 489 trillion cubic feet of natural gas are being readied for delivery. This new supply of domestically produced natural gas, combined with enhancements to pipelines and storage facilities, will serve the needs of the Northeast and render new LNG projects such as Downeast LNG obsolete. A 2009 Pennsylvania State University study found that:

The Marcellus Shale is the largest known shale deposit in the world and lies under much of the Appalachian basin from upstate New York, as far south as Virginia, and as far west as Ohio. While estimates of natural gas reserves should be considered imprecise at this early stage, Engelder (2009)<sup>8</sup> finds that recent production data suggest recoverable reserves could be as large as 489 trillion cubic feet.

The discovery of the Marcellus Shale comes at a critical juncture for the economic and strategic position of the United States. Natural gas is widely viewed as a bridge between the age of oil and the next energy paradigm, perhaps based upon some combination of nuclear, solar, wind, and biomass resources. **Just 10 years ago, many believed that imported liquefied natural gas (LNG) would be a pillar in this bridge.** By developing domestic natural gas resources here in the United States, greater energy import dependency and higher trade deficits could be avoided. **Liquid fuel imports also could be displaced if these new natural gas resources could be utilized in transportation.**<sup>9</sup> (Emphasis added.)

According to the U.S. Geological Survey, the estimated amount of recoverable Marcellus Shale gas available jumped just over the course of 2008, from 50 TCF in 363 TCF, the latter of which represents a 15-year gas supply for the entire nation, and Marcellus Shale is only one of

<sup>8</sup> Engelder, T. *Marcellus 2008: Report Card on the Breakout Year for Gas Production in the Appalachian Basin*, Fort Worth Basin Oil and Gas Magazine, 2009.

<sup>9</sup> Considine, Timothy et. al. *An Emerging Giant: Prospects and Economic Impacts of Developing the Marcellus Shale Natural Gas Play*, The Pennsylvania State University, August 5, 2009.

NA7

several shale deposits across the country to undergo recent exploration.<sup>10</sup> Further, interest in domestic shale has generated only recently, and Marcellus Shale production is taking off even during a period of falling gas prices.<sup>11</sup> “The potential of this ‘shale gale’ only really became clear around 2007.” Yergin, Daniel & Ineson, Robert, *America’s Natural Gas Revolution*, The Wall Street Journal, November 3, 2009. Recent development is attributable to the combination of two factors: new developments in drilling technology and rising wellhead prices for gas (from less than \$2.00 per MCF in the 1980s to a peak of \$10.82 per MCF in the summer of 2008).<sup>12</sup>

Increased shale production has already impacted the market for LNG in the United States, and its growth will only continue to do so. “Unconventional natural gas has already had a global impact. With the U.S. market now oversupplied, and storage filled to the brim, there’s been much less room for LNG. As a result more LNG is going into Europe, leading to lower spot prices and talk of modifying long-term contracts.”<sup>13</sup>

The ISO-NE also recognizes Marcellus Shale development. The ISO-NE Regional System Plan also reviews natural gas infrastructure enhancements that can help to serve the New England markets. Many gas pipeline improvements have been recently completed, and storage capacity is undergoing expansions in New York and Pennsylvania. Notably, the ISO-NE Regional System Plan – a ten-year plan – makes no mention of Downeast LNG. The ISO-NE 2009 Regional System Plan released on October 15, 2009 states:

As a result of events tied to the regional cold snap that occurred in January 2004, the forecast for new LNG supplies, and the natural progression of market expansion, the natural gas industry has invested heavily in natural gas infrastructure enhancements in the northeastern United States—both in and outside New England—and in eastern Canadian markets. Some of these enhancements primarily were driven by the need to deliver new LNG supplies. **More recently, work has begun for gaining access to new gas supplies emanating from the Rocky Mountain basins and other new, unconventional**

<sup>10</sup> Soeder, Daniel J. & Kappel, William M. *U.S. Geological Survey Fact Sheet 2009-3032*, Water Resources and Natural Gas Production from the Marcellus Shale at 3.

<sup>11</sup> “Prospect of Decades of Returns Makes Marcellus Shale the Hot Place to Be: Natural Gas Prices Drop, But Companies Drill On”, *Boston Business Journal*, August 8, 2009.

<sup>12</sup> Soeder, Daniel J. & Kappel, William M. *U.S. Geological Survey Fact Sheet 2009-3032*, Water Resources and Natural Gas Production from the Marcellus Shale at 3.

<sup>13</sup> Yergin, Daniel & Ineson, Robert, *America’s Natural Gas Revolution*, The Wall Street Journal, November 3, 2009. Daniel Yergin is Chairman of IHS Cambridge Energy Research Associates, Inc. and Author of *The Prize: The Epic Quest for Oil, Money and Power*; Robert Ineson is Senior Director of Global Gas for IHS CERA.



NA7

**natural gas supply sources, such as Marcellus Shale, closer to New England.**  
(Emphasis added.)

FERC has acknowledged the importance of Marcellus Shale gas. *AES Sparrows Point, LLC*, 126 FERC ¶ 61,019, at 61,097 (2009) (Chairman Wellinghoff dissent, citing a recent study by Navigant Consulting, “Natural gas from the Marcellus shale has significant potential as a reliable, domestic, cost-effective source of natural gas supply”); FERC Office of Enforcement, Winter 2008/2009 Energy Market Assessment, at 10 (Oct. 16, 2008) (production from the Marcellus shale formation could show rapid production growth in the next few years); *Corning Natural Gas Corp.*, 129 FERC ¶ 62,060, at P 4 (2009) (order issuing blanket limited jurisdiction certificate to permit LDC access to highly productive Marcellus Shale Formation supply source); see also Testimony of FERC Staff Witness Andrew M. Bieltz, *Portland Natural Gas Transmission System*, FERC Docket No. RP08-306-000, at 35-39 (Mar. 16, 2009) (noting that EIA raised its year 2030 estimate of shale gas production by 85% in its AEO 2009 from only one year earlier, and that the EIA has “historically been conservative” in projecting future shale production).

Moreover, pipeline companies recognize the need to develop additional infrastructure to transport the new supplies to consuming markets and, as a result, have announced new open seasons for expansions intended to carry Marcellus Shale gas to the Northeast and New England markets.<sup>14</sup>

Downeast LNG fails to recognize the significance of Marcellus Shale production and its impact on LNG imports. This dramatic recent expansion of domestic gas supplies – previously thought to be declining – points to the conclusion that Downeast’s proposed LNG regasification facility is not needed in New England.

<sup>14</sup> See, e.g., [http://www.ironquios.com/documents/Iroquois\\_NYMarCOS\\_PR.pdf](http://www.ironquios.com/documents/Iroquois_NYMarCOS_PR.pdf) “Iroquois Gas Transmission System, L.P. (“Iroquois”) has announced the commencement of a non-binding open season for its NYMar project proposed to connect rapidly expanding Marcellus gas supplies to New York, New England and Eastern Canadian gas markets” and [http://www.spectraenergy.com/news/releases/2009/nov/20091117\\_01.asp](http://www.spectraenergy.com/news/releases/2009/nov/20091117_01.asp) “Spectra Energy Corp’s (NYSE:SE) Texas Eastern Transmission, LP (Texas Eastern) today announced a binding open season for TEAM 2012, a proposed expansion of its existing Texas Eastern system to deliver additional Appalachian and Marcellus Shale natural gas supplies to premium markets in the U.S. Northeast. The TEAM 2012 Expansion Project will target a capacity expansion of 300 million cubic feet per day (Mmcfd), with an estimated fourth quarter 2012 in service. . . . The company recently announced it signed a binding agreement for a minimum of 150 Mmcfd of firm transportation capacity with an affiliate of Range Resources Corporation (NYSE: RRC), a leading Marcellus Shale producer, as part of the TEAM 2012 Expansion.”

NA7

**Argument 3: The demand for electricity produced by natural gas in New England will be offset by the rising supply of renewable resources and energy management, and ISO-New England warns against over-reliance on LNG.**

In its Revised Purpose and Need Statement, Downeast LNG references an ISO New England August 2, 2007 study entitled: “New England Electricity Scenario Analysis: Exploring the economic, reliability, and environmental impacts of various resource outcomes to meeting the region’s future electricity needs.” Downeast LNG relies upon this study to support its claim that the Downeast LNG facility is needed to meet future electricity demand as most new generation would be in the form of gas-fired combined cycle generation. This is a fair interpretation of the ISO-NE findings in its 2007 study.

However, Downeast LNG failed to reference a more recent ISO New England study **dated September 8, 2009**, entitled “New England 2030 Power System Study: Report to the New England Governors, 2009 Economic Study: Scenario Analysis of Renewable Resource Development.” This study, in essence, compares the viability and cost impact of a wind versus gas fired combined cycle scenario in meeting New England future electricity requirements. In summary, the ISO-NE study of renewable resources found, with wind as the leading edge technology, New England’s future electric supply requirements can be met economically via renewable generation. The ISO-NE report confirmed the viability of up to 12,000 MW of potential wind generation.

The ISO-NE’s predicted viability of 12,000 MW of potential wind generation therefore supports the EIA Updated Annual Energy Outlook 2009’s conclusion – which Downeast LNG charges as overstated in its Revised Project Purpose and Need Statement – that renewable resources can meet New England’s future energy demand of 8,000 MW.

Also, ISO-NE recently warned against over-reliance on natural gas and upon LNG in particular. On October 15, 2009, ISO-NE released its 2009 Regional System Plan, which addresses New England’s long-range energy and capacity requirements to meet future electric demand. This comprehensive report, prepared by the best and most knowledgeable experts on New England energy matters, clearly refutes Downeast LNG’s claims that its facility is essential to meet natural gas requirements in New England. Critically, this report offers a warning to all

NA7

stakeholders that over-reliance on natural gas does not provide adequate fuel diversity and calls for a significant increase in dual fuel generation. It also offers a specific warning against over-reliance on re-gasified LNG. Because newer and more efficient combined-cycle gas turbine technologies are more sensitive to fuel quality, ISO-NE is concerned that the quality of the blended supply of natural gas will deteriorate if the percentage of LNG in the mix grows.

The ISO-NE report also does not mention Downeast LNG – either its potential existence or need for it. The report outlines recent developments in natural gas supply capacity in New England, and includes the new LNG facilities at Canaport, Northeast Gateway and Neptune, new and expanded pipeline capacity into New England, and new storage capacity in New York, Pennsylvania and New Brunswick that help supply the New England markets. Downeast LNG is not mentioned. The ISO-NE report also notes that the M&NE Pipeline is committed to delivery from the Sable Offshore Energy project, the nearly-complete Deep Panuke project, the McCully field, and from Canaport, but does not mention Downeast LNG with regard to the M&NE Pipeline. Downeast LNG admits that the M&NE Pipeline is at capacity and would need to expand to accommodate its proposed new LNG terminal.<sup>15</sup>

As a final point of interest, the ISO-NE study calls upon the EIA's long-range Annual Energy Outlook as a resource and does not mention the three references Downeast LNG purports to be superior to the EIA's Annual Energy Outlook.

**Argument 4: Downeast LNG's comparison of the EIA's short term energy outlook to the long range outlook represents a common failure and lack of understanding of the difference between short and long range forecasting.**

Downeast LNG argues on page 6 of its August 21, 2009 response "that the EIA Updated Annual Energy Outlook (2009), which is referenced in several DEIS comment letters to FERC, has a number of inaccuracies." Downeast LNG goes on to compare forecasted LNG imports between the EIA 2009 Long Term Annual Energy Outlook and the July 2009 Short Term Energy Outlook to illustrate how the latter was in error. This difference between the two EIA reports is

<sup>15</sup> See FERC Staff Information Request, November 13, 2009 and Downeast LNG Response, November 23, 2009. Notably, Downeast's response emphasizes secondary market capacity on M&NE Pipeline—hardly a reliable source of transportation capacity for regasified LNG.

NA7

not an error, but a failure on the part of Downeast LNG to understand the differences between a short-term and a long-term energy forecast.

A short-term forecast is driven by near-term events and focuses on the economic trends demonstrated in recent history. As a general rule, the period of historical data used should be about the same duration of the period used for the forecast, *i.e.*, a two-year forecast relies heavily on the previous two-year trend. Longer term forecasts tend to rely on much longer term trends and correlations between economic drivers. Historical trends using 10 to 20 years of data are not uncommon. As a result, the projection of the first year of the long-range forecast may be different than the projection derived for the same year using a short-term model. As an example, if the long-term population trend is driven by migration patterns and birth and death rates, the long-range forecast could project a rise in population beginning in the first year of the forecast. However, a short-term population forecast could focus on local employment rates which, in a recessionary period, could be declining thus showing a population decline for that first year. This inconsistency does not demonstrate that either forecast is wrong; Downeast's analyst simply fails to understand the differences.

There is no inconsistency between EIA's long-term and short-term energy outlooks. The EIA Updated Annual Energy Outlook 2009 captured the fact that LNG supply would decline in 2010 due to broader economic trends, not a short-term temporary condition. The Updated Annual Energy Outlook 2009 recognizes that LNG supplies, after initially declining, will peak at 1.38 TCF by 2020, but then again decline to .85 TCF by 2030.

**Table A13. Natural Gas Supply, Disposition, and Prices**  
(Trillion Cubic Feet per Year, Unless Otherwise Noted)

Supply, Disposition, and Prices	2007	Projections											
		2010			2020			2030					
		No Stimulus	Updated AEO2009 Reference April 2009	Published AEO2009 Reference March 2009	No Stimulus	Updated AEO2009 Reference April 2009	Published AEO2009 Reference March 2009	No Stimulus	Updated AEO2009 Reference April 2009	Published AEO2009 Reference March 2009	No Stimulus	Updated AEO2009 Reference April 2009	Published AEO2009 Reference March 2009
Production													
Dry Gas Production <sup>1</sup>	19.30	20.10	20.02	20.38	20.57	19.58	21.48	23.48	23.03	23.60			
Supplemental Natural Gas <sup>2</sup>	0.06	0.06	0.06	0.06	0.06	0.06	0.06	0.06	0.06	0.06			
Net Imports	3.79	2.41	2.34	2.50	1.79	1.85	1.86	0.80	0.38	0.66			
Pipeline <sup>3</sup>	3.06	2.02	1.96	2.02	0.40	0.47	0.48	-0.02	-0.43	-0.18			
Liquefied Natural Gas	0.72	0.39	0.38	0.47	1.40	1.38	1.38	0.82	0.81	0.85			
Total Supply	23.14	22.57	22.42	22.94	22.43	21.50	23.40	24.34	23.47	24.33			

Source: EIA Updated Annual Energy Outlook 2009

NA7

**Argument 5: Downeast continues to argue that its LNG facility is required to meet the growing demand for natural gas in New England based on unfounded assumptions.**

The linchpin in Downeast LNG's argument that this facility is required to meet the growing demand for natural gas is predicated on three assumptions:

1. The demand for natural gas is growing based on the expected expansion of gas fired combined cycle generation.
2. Current supplies of natural gas in New England cannot meet this growing demand.
3. Additional storage capacity of Downeast LNG will better match supply with consumer demand.

These assumptions are unsound for several reasons. First, as discussed in Argument 3, a significant portion of the projected combined cycle capacity projected in 2007 through 2030 can be economically displaced by such environmentally friendly renewable generation as wind and hydrokinetic generation. If and when such displacement happens, the increased renewable power generation, coupled with the increased domestic natural gas production as discussed in Argument 2, and existing LNG imports in the Mid-Atlantic and Northeast will be more than adequate to meet any increase in demand for natural gas-fired power generation.

Second, relative to natural gas supply in New England, Downeast LNG fails to mention that regional LNG capacity, which amounts to about 20% of gas consumption in New England, could rise to over 48% with the operation of the Northeast Gateway and Neptune LNG terminals.<sup>16</sup> This 48% assumes a 65% capacity factor, which is similar to the Everett LNG facility and does not take into account peak load capabilities. For example, the Everett LNG plant can produce, on average, 715 MMCF/d, but up to 1 BCF/d under peak load conditions. Furthermore, Northeast Gateway LNG, while built to deliver 500 MMCF/d (600 MMCF/d peaking) could be expanded to up to an average of 800 MMCF/d. If the Northeast Gateway LNG facility is upgraded to 800 MMCF/d, LNG production in New England could increase to

<sup>16</sup> Neptune LNG is not yet in service but is projected to go online fourth quarter 2009

NA7

58% of demand. Just with these facilities alone, the surplus capacity required to meet New England demand for natural gas will increase by between 27 – 36%.<sup>17</sup> (See Appendix A)

Finally, while Downeast LNG highlights the virtue of its storage capacity, it overstates its value to the New England market when one factors in the peaking capacity of the three existing LNG facilities. With an aggregate average daily output of 1.6 BCF, the peaking capacity rises to 1.85 BCF. This 250 MMCF of additional peaking capacity equates to about 12% of daily demand. Add this to the 27 – 36% of surplus pipeline and LNG capacity, and the capacity to serve load in New England no longer necessitates additional storage.

This raises one other issue addressed in our original analysis: Downeast LNG's ability to deliver natural gas to the New England markets. Downeast LNG assumes it can transport via the M&NE pipeline. As the Commission is aware, this assumption is highly uncertain as the pipeline is already at full capacity and no agreements have been reached by either party to expand this pipeline through Maine into Massachusetts. As pointed out in our original analysis, and not disputed by Downeast LNG since, the cost to upgrade the M&NE pipeline would range between \$265 and \$350 million.

<sup>17</sup> EIA Table SR6, "U.S. Natural Gas Imports by Point of Entry, 2008"

NA7

Appendix A: Work paper for Argument 5<sup>18</sup>Natural Gas Supply and Demand in New England  
Adjusted for Neptune & Northeast Gateway LNG

LNG	Conn	NH	Maine	MA	RI	VT	Total
Import		56,879	106,643	18,299		8,021	189,842
Storage LNG	485	103	40	11,567			12,195
LNG - Everett	169,634			165,325			165,325
Neptune	94,900			94,900			94,900
Northeast Gateway	118,625			118,625			118,625
Northeast Gateway upgrade							
Total	383,159	485	56,982	106,683	408,716	8,021	580,887
Pipeline		179,693	5,151	(62,131)	43	88,003	846
Total		180,178	62,133	44,552	408,759	88,003	8,867
% LNG		0.27%	0.17%	0.09%	95.51%	0.00%	0.00%
Consumption		180,178	62,133	44,552	408,759	88,003	8,867
Electric		73,627	39,013	33,872	183,231	51,397	26
% Electric		40.86%	62.79%	76.03%	44.83%	58.40%	0.29%
surplus							425,130
							213,525
							27%

Natural Gas Supply and Demand in New England  
Adjusted for Neptune & Northeast Gateway (expanded) LNG

LNG	Conn	NH	Maine	MA	RI	VT	Total
Import		56,879	106,643	18,299		8,021	189,842
Storage LNG	485	103	40	11,567			12,195
LNG - Everett	169,634			165,325			165,325
Neptune	94,900			94,900			94,900
Northeast Gateway							
Northeast Gateway upgrade	189,800			189,800			189,800
Total	454,334	485	56,982	106,683	479,891	8,021	652,062
Pipeline		179,693	5,151	(62,131)	(71,132)	88,003	846
Total		180,178	62,133	44,552	408,759	88,003	8,867
% LNG		0.27%	0.17%	0.09%	112.93%	0.00%	0.00%
Consumption		180,178	62,133	44,552	408,759	88,003	8,867
Electric		73,627	39,013	33,872	183,231	51,397	26
% Electric		40.86%	62.79%	76.03%	44.83%	58.40%	0.29%
surplus							425,130
							284,700
							36%

<sup>18</sup> EIA Table SR6: U.S. Natural Gas Imports by Point of Entry, 2008.

NA7

J E S Venart, PEng, PhD  
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Canada

November 16, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001

## Comments of J E S Venart, PEng, PhD

In Response to  
Response to Downeast Comments and Report regarding  
Thermal Radiation and Vapor Dispersion Calculations  
Filed October 29, 2009  
Accession Number 20091029-5075

Dear Ms. Bose,

The comments below result from my review of Downeast LNG's electronic filing regarding Thermal Radiation and Vapor Dispersion Calculations of October 29, 2009 concerning Accession Number 20091029-5075, in Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001. I provide these comments on behalf of Three-Nation Alliance (Save Passamaquoddy Bay-U.S., Save Passamaquoddy Bay-Canada, Inc., and Nulankeyutomonen Nkihtahkomikumon) and its individual member/interveners.

I submitted remarks previously as part of the Three-Nation Alliance July 6, 2009 Comments on FERC's Draft Environmental Impact Statement, Accession Numbers 20090706-5123, 20090707-5003, 20090707-5021, 20090707-5022, and 20090707-5023. My resume is attached.

NA7

#### Comment Summary

My comments on Downeast LNG's October 29, 2009 submission address the document's significant and serious insufficiencies. Specifically:

1. The assumptions used by Downeast LNG to calculate thermal radiation exclusion zones for a tank-top fire are not based upon verifiable scientific analyses and are therefore unreliable. As a result, Downeast LNG underestimates the size of the thermal radiation exclusion zones. Because:
  - a. Use of appropriate assumptions and analysis, coupled with the probable and inevitable consequences of same, means that the actual thermal radiation exclusion zones would extend far outside the Downeast LNG property lines; and thus,
  - b. Downeast LNG's actual exclusion zones will fail to adequately protect the public.
2. It is inappropriate to apply LNGFire III to the case of the tank-top fire envisaged and thus determine the maximum radiation exclusion zone. NFPA59A (2001 and 2006) require that models take into account the same physical factors and be validated against actual experimental test data appropriate to the size and condition of the hazard, but LNGFire III has not been validated for fires of the size proposed here nor for tank-top fires – indeed there exist, to my knowledge, no verified analytical tank top fire models. See, e.g., NFPA59A (2006) Sec. 5.2.3.3.

NA7-4

#### Comment Explanation

The assumptions and analyses used by Downeast LNG to calculate thermal radiation exclusion zones for the tank-top fire proposed are not based upon verified scientific analyses and are therefore unreliable. Downeast LNG has therefore underestimated the potential size of the thermal radiation exclusion zone for this case. In fact, the exclusion zone for a tank-top fire – predicted already by Downeast LNG to extend onto Route 1 – will extend beyond Route 1 and onto adjacent property.

Downeast LNG's several scientific shortcomings are as follows:

- The analysis presumes that the wind speed, selected from weather data (typically measured at an elevation of only 10 m), will also apply at the elevation of the tank top. This is incorrect as wind speed will increase with elevation (the walls of the tank are 43.5 m high), and thus its influence will tend to significantly bend the flame towards the ground and lengthen its radiant exposure. Downeast's calculated zones already extend

NA7-4 As discussed in EIS section 4.12.5 Siting Analysis, Thermal Radiation Analysis, LNGFIRE3 has been scientifically assessed, verified, and validated for modeling LNG pool fires. Specifically, LNGFIRE3 uses a solid flame model approach, which is currently the most commonly used methodology to model thermal radiation hazards for large open hydrocarbon fires. The solid flame approach approximates the geometric shape of a fire as a tilted cylinder, parallelepiped, or other simple geometry with characteristics based on experimentally derived values and correlations for mass burning rate, flame height, flame tilt, and flame drag. Corresponding geometric view factors for the simplified geometric shape and correlations for the surface emissive power (SEP) and atmospheric transmissivity are then multiplied together to estimate thermal radiation intensity at a specified distance. We conducted a detailed study, "Recommended Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills," Issued January 23, 2013 in Docket AD13-4-000 (eLibrary Accession Number: 20130123-4002), evaluating the commentor's concerns, including the effect of higher elevations on wind speed and flame drag, the potential for higher surface emissive powers, and a sensitivity analysis for various other parameters. We concluded while LNGFIRE3 under-predicts the mass burning rate, flame length, and the mean surface emissive power for large scale LNG fire tests, predicted distances to radiant heat levels are still close in agreement with the measured values from the experiments. This is primarily due to the over-prediction of the view factor inherent in the solid flame model representation of the flame as a cylinder. We concluded that LNGFIRE3, as currently prescribed by 49 CFR Part 193, is appropriate for modeling thermal radiation from LNG pool fires on land and is suitable for use in siting on-shore LNG facilities. Also see, response to comment NA4-198.

In addition, the commentor suggests the fire exposure to the concrete outer containment walls could have knock-on and deleterious effects. However, history of storage tank top fires indicates that the more likely failure mode is the storage tank would fail above the liquid line but remain intact below the liquid line due to the insulating qualities of the liquid within the storage tank. This would also be more in line with properly done structural integrity analyses of double containment LNG storage tanks, which shows a similar failure sequence. As discussed in section 4.12.5, assuming this more credible failure sequence would not significantly change the thermal radiation results.



NA7

onto Route 1. Use of the more relevant and accurate wind speeds at elevation will result in zones extending further onto Route 1 and beyond, onto neighboring property;

- The analysis presumes, for flame surfaces greater than 1 m above ground level, that there is *no* flame drag. This contradicts the well-known aerodynamic facts that flames will not only be dragged around the leeward edge of the tank but will also envelope the concrete edges there;
- The analysis presumes that the flame's surface emissive power (SEP) is constant at a value of 190kW/m<sup>2</sup>, while experimental values greater than 300 kW/m<sup>2</sup> have been measured. Though the value chosen depends upon the shape of the flame selected, it is not clear what value would be appropriate for these conditions, especially due to the fact that no flame drag is assumed and no data exists for fires of this size and position;
- Downeast incorrectly assumes that the fire exposure to the concrete tank walls will not have any knock-on and deleterious effect on the concrete walls of the tertiary containment. Fires of this size cannot be fought and the only recourse is to let the fire burn out—for a full LNG tank this size this will take some 20 to 30 hours. During this period the fire engulfment of the concrete walls on the leeward sides, due to aerodynamic and flame-drag effects, will expose the concrete to 100+ kW/m<sup>2</sup>. This represents a radiant flux more than three times design and some three times greater in duration than that envisaged by EN1473<sup>1</sup> – thus exposing the concrete tertiary containment to external thermal stress with the potential for explosive spalling of the concrete and its potential failure, followed by loss of support to the interior mild steel moisture barrier and support to the insulating perlite. Thermal stresses to this complex system, over the many hours of exposure, could cause collapse of the downwind edges of the primary containment and loss of LNG into the perlite perhaps sufficient to result in total collapse of the containment system due to thermal stress. Under such conditions escalation of the event would be inevitable. The extent of the pool fire would then increase to the 10 acre impoundment provided by the earthen/rock dikes proposed around the tank area. Due to the increased size of pool fire plant, processing areas will be adversely affected and the public radiation exclusion zone substantially increased to values greatly in excess of those permitted by NFPA59A.

<sup>1</sup> EN 1473, Installations and equipment for liquefied natural gas - Design of onshore installations. German edition, 1997, Berlin; see also *The Fire Resistance of Concrete Structures of a Typical LNG Tank*; Josef Roetzer, Daniele Salvatore, Structural Engineering International 11, 2007, Reports 61, pp 61-67.

NA7

- The LNGFireIII model has not been verified against experimental LNG pool fire test data greater than 35m in diameter – the tank-top fire proposed would be of the order of 80 m in diameter; and
- Finally, the LNGFireIII model has not been verified for tank-top fires.

### Conclusion

For any and all of the above reasons, Downeast's application must be rejected. Downeast has relied upon unreliable scientific assumptions and the inappropriate use of a model, LNGFireIII, which has not been verified for this application or its size. Further, Downeast has failed to consider the potential knock-on consequences of failure of the tertiary concrete containment system due to the influence of the proposed tank top fire. Even by Downeast's inappropriate use of LNGFireIII the 5 kW/m<sup>2</sup> radiation exclusion zone extends beyond its property boundaries and thus puts the public at risk of harm. Under the conditions described above this risk will be even greater, requiring FERC to reject Downeast LNG's application.

Sincerely,

J E S Venart, PhD, PEng  
Professor Emeritus Mechanical Engineering  
University of New Brunswick

SHEMS DUNKIEL RAUBVOGEL & SAUNDERS PLLC

NA8

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KAREN L. TYLER

February 16, 2010

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

**Re: Supplemental Comments on FERC Draft Environmental Impact Statement,  
Downeast LNG Facility, Project Docket Numbers: CP07-52-000, CP07-53-  
000, and CP07-53-001**

Dear Ms. Bose:

This letter provides supplemental comments of *Nulankeyutomonen Nkihtahkomikumon* (We Take Care of Our Land), Save Passamaquoddy Bay-Canada, Inc., and Save Passamaquoddy Bay-U.S., as well as individual members/intervenors of those groups – together, “Three-Nation Alliance” or “TNA.”

TNA submitted comments on the DEIS on July 6, 2009. TNA submitted additional comments on November 24, 2009

This further comment is warranted because Commission action in another docket is inconsistent with the Commission’s treatment of identical circumstances in this docket. TNA submits that the Commission’s action in this docket is contrary to law.

TNA’s July 6, 2009 comments detailed several reasons why the DEIS was incomplete and that either a new DEIS or a Supplemental DEIS is required because, *inter alia*, the DEIS failed to assess expansion of the Maritimes and Northeast Pipeline requisite to the Downeast LNG Project. TNA commented, in part, that:

[T]he M&NE pipeline is without capacity to accommodate gas from Downeast’s proposed terminal. DEIS at 1-2 – 1-3, 2-17 – 2-18, 2-19. “Based on the information available when Downeast filed its application, we determined that the M&NE system may not have sufficient capacity to transport the natural gas volumes from the interconnection with the Downeast Pipeline.” DEIS at 2-17. Expanding the M&NE Pipeline is thus a “connected action” to Downeast’s proposal.

NA8-1

NA8-1 See response to Comment FA4-1.

91 COLLEGE STREET • BURLINGTON, VERMONT 05401  
TEL 802 / 860 1003 • FAX 802 / 860 1208 • www.shemsdunkiel .com

\*Also admitted in the State of Maine  
\*\*Also admitted in the District of Columbia

NA8

Further, it is within this project's scope. 40 C.F.R. § 1508.25 (requiring connected, closely related, or interdependent actions to be considered in the EIS). Indeed, the Commission identifies expansion of approximately 130.9 miles of the M&NE Pipeline as a "potential component" of this project that should be assessed as part of this DEIS.

Although M&NE is not proposing to construct these facilities [pipeline expansion] and does not have an application before the FERC, we have determined that these expanded M&NE facilities are a potential component of the Downeast LNG project and that an analysis of the impacts of these facilities should be included in this draft EIS.

DEIS at 1-16. Contrary to the requirement that an agency must consider "connected actions" or the project's full scope in a single EIS, and despite the Commission's explicit recognition that it should do so, the Commission fails to include analysis of M&NE's impacts sufficient for the required "hard look." *Save the Yaak Comm. v. Block*, 840 F.2d 714, 719 (9th Cir. 1988); 40 C.F.R. § 1508.25(a)(1). To the contrary, the Commission concludes that any environmental review of the proposed M&NE Pipeline expansion would occur *only "if and when, an application is filed with the Commission for authorization of [this expansion]."* DEIS at 2-29. The Commission further recognizes that M&NE has demonstrated "no intent" to apply. DEIS at ES-2. Hence, the impacts of M&NE Pipeline expansion – a significant undertaking within this project's scope – is simply not assessed.

TNA Comments (Jul. 6, 2009) at 29-30 (emphasis added) (footnotes omitted).

Addressing these very same circumstances in another docket, Calais LNG Project Company, LLC, No. CP10-32-000 and Calais Pipeline Company, LLC, No. CP10-31-000, the Commission took the exact opposite position; the Commission will not wait for M&NE to file an application, but will assess pipeline impacts in the DEIS as a necessary part of the Calais LNG Project. By notice issued in the Calais LNG Project, the Commission stated, in part, that:

This Supplemental Notice of Intent (NOI) discloses the potential facilities that are anticipated to expand M&NE's system, based on information provided to Calais LNG by

NA8-1  
cont'd

NA8-2

NA8-2 See response to Comment FA4-1.

NA8-3

NA8-3 See response to Comment FA4-1.



NA8

M&NE. Although M&NE is not proposing to construct these facilities and does not have an application before the FERC, these expanded M&NE facilities are likely a necessary part of the project. An analysis of the impacts of these facilities will be included in the EIS being prepared for the Calais LNG facility. This Supplemental NOI is being issued to notify the public about the anticipated M&NE system expansion and to request comments regarding the possible environmental impact of those facilities.

NA8-3  
cont'd

Supplemental Notice Of Intent To Prepare An Environmental Impact Statement For The Calais LNG Project And Request For Comments On Environmental Issues Related To The Potential Expansion Of The Maritimes & Northeast Pipeline System, No. PF08-24-000 (May 27, 2009) ("Supplemental Notice"). Indeed, Maritimes & Northeast Pipeline, LLC recently moved to intervene in the Calais LNG dockets claiming, in part, that the Supplemental Notice provides M&NE with "a material interest in the outcome of this proceeding that cannot be adequately represented by any other party." Motion to Intervene and Comments of Maritimes and Northeast Pipeline, LLC, Nos. CP10-31-000 and CP10-32-000 (Jan. 27, 2010) at 3. *See also id.* at 4-6 (NEPA requires assessment of indirect and cumulative impacts of Calais LNG Project).

The potential that the M&NE Pipeline expansion may have to be of such a scope to accommodate the throughput from more than just the Downeast LNG Project is a further cumulative impact that must be addressed as part of the Downeast LNG DEIS. The DEIS did not address it.<sup>1</sup>

NA8-4

Such inconsistency in treatment by an agency is a hallmark of a failure to consider relevant factors. Expansion and use of the M&NE pipeline is no less integral to the Downeast LNG Project than it is to the Calais LNG Project. To comply with NEPA, the DEIS should have included a complete and thorough assessment of the M&NE Pipeline expansion since FERC has determined that it is critical to the success of the Project and FERC has determined that it must do the same in a nearly identical proceeding, namely Calais LNG.

NA8-5

<sup>1</sup> In response to staff information requests, DEIS at 5-32, ¶ 13 and FERC Staff Information Request (Nov. 13, 2009) at ¶ 1, Downeast LNG effectively asserts that DEIS was incorrect in its conclusion that M&NE expansion would be required to accommodate Downeast's throughput. Response to November 13, 2009 FERC Staff Information Request of Downeast LNG, Inc. and Downeast Pipeline LLC (Nov. 23, 2009). Instead, asserts Downeast LNG, potential capacity interruptions and/or capacity turnbacks in 2014 could accommodate its throughput. *Id.*

Downeast's claim is nothing short of wishful thinking. Further, Downeast assumes it will be able to purchase and sell LNG more competitively than the significantly larger, more established, and already operating companies currently holding all of the M&NE Pipeline's capacity. Moreover, Downeast LNG's information response again fails to account for the cumulative throughput of other potential LNG facilities that would likewise depend on the M&NE pipeline.

NA8-4 See response to Comment FA4-1. The FERC dismissed the Quoddy Bay and Calais LNG Project applications.


NA8-5 See response to Comment FA4-1 and NA8-4.

NA8

February 16, 2010

Save Passamaquoddy Bay-Canada, Inc.  
Save Passamaquoddy Bay-U.S.  
*Nulankeyutomonen Nkihtahkomikumon*

by:

  
\_\_\_\_\_  
Ronald A. Shems  
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91 College Street  
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Attorneys for Intervenor

cc: Service List

## NA9 Save Passamaquoddy Bay

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20100513-4003 FERC PDF (Unofficial) 05/13/2010

NA9

From: Robert Godfrey [info@savepassamaquoddybay.org]  
Sent: Thursday, May 13, 2010 11:14 AM  
To: Shannon Crosley  
Cc: Ronald A. Shems, Esq.; Rebecca Boucher; FOIA-CEII; Lauren O'Donnell; Gail Kelly; Carol Woodcock; Rosemary Winslow  
Subject: Re: Calais LNG FEIS Questions

Shannon Crosley, Environmental Project Manager for Downeast LNG  
FERC  
Washington, DC

Shannon,

Thank you for your response. I understand the schedule issue; however, my original question remains: Has Downeast LNG satisfied FERC's FEIS information request questions?

NA9-1

After more than 10 months of waiting beyond FERC's 2009 July 6 deadline -- all the while, beyond that date, intervenor Save Passamaquoddy Bay has not been granted its request to submit DEIS comments for consideration -- I believe the public has a right to know whether or not Downeast LNG has satisfied FERC's questions.

NA9-2

If all questions have been satisfied, when did that occur?

If all questions have not been satisfied, specifically what questions remain unanswered?

I look forward to learning the answer at your earliest convenience.

Many thanks!

Bob

Robert Godfrey  
researcher & webmaster  
Save Passamaquoddy Bay 3-Nation Alliance  
(US - Passamaquoddy - Canada)  
www.SavePassamaquoddyBay.org

On 2010 May 12, at 3:29 PM, Shannon Crosley wrote:

When we are able to determine a schedule for the FEIS, we will issue a Notice of Schedule for Environmental Review. It will be publicly issued, so you will see it on eLibrary.

NA9-1 Downeast has complied with most of the conditions in the draft EIS that required action and has responded to data requests issued since the publication of the draft EIS. Downeast's submittals are available for public review on the FERC eLibrary. We have retained certain recommendations in the final EIS. See also response to comment NA4-2.

NA9-2 We disagree that the NEPA process has precluded Save Passamaquoddy Bay from commenting on the draft EIS or any new information provided by the applicant. See response to Comment NA5-1. In fact, even though the formal comment period is over, we encourage the public to comment on the DEIS and new information provided by Downeast. We continue to receive comments from Save Passamaquoddy Bay and other members of the public, which have been addressed in the final EIS.

20100513-4003 FERC PDF (Unofficial) 05/13/2010

NA9

Shannon

From: Robert Godfrey [mailto:info@savepassamaquoddybay.org]

Sent: Tuesday, May 11, 2010 3:50 PM

To: Shannon Crosley

Subject: Calais LNG FEIS Questions

Shannon,

I'm wondering if Downeast LNG has satisfied FERC's FEIS information request questions, or if that issue is still pending

Thanks!

Bob

Robert Godfrey

researcher & webmaster

Save Passamaquoddy Bay 3-Nation Alliance

(US • Passamaquoddy • Canada)

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(207)853-4123

(207)853-2922 (my office at Old Sow Publishing)

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20111206-5115 FERC EOT (Unofficial) 12/6/2011 3:29:00 PM

NA10



**Save Passamaquoddy Bay**

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Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2011 December 6

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000 and CP07-53-001**

Dear Ms. Bose,

Downeast LNG continues its long history of FERC deadline abuse, to the detriment of the public interest and the FERC permitting process.

**Downeast LNG's History of Deadline Abuse:  
Two Sets of Unanswered Questions**

**Failure to Meet FERC's 2011 October 18 Environmental Questions' November 8 Deadline**

On October 18, FERC's Office of Energy Projects asked Downeast LNG to provide responses to 14 environmental data questions, to be answered within 20 days, making the due date November 8.

Not until the November 8 due date did Downeast LNG file any response, and even then stated that it would not answer FERC's questions until December 8.

On December 8, Downeast LNG filed a response to a single question only — to question 12. The other 13 questions remain unanswered. Downeast LNG has not indicated when, or if, it plans to provide answers to those remaining 13 questions.

**Failure to Answer 2009 Data Requests Arising from DEIS**

As far as can be discerned, Downeast LNG is now two years and five months late in completely answering FERC's data requests arising from the 2009 Draft Environmental Impact Statement.

**Aborted State of Maine Permitting Process**

After a year-long application process, in 2007 July Downeast LNG went completely through the Maine Board of Environmental Protection week-long quasi-judicial hearing, the final step in obtaining state permits. After completing those hearings Downeast LNG

20111206-5115 FERC PDF (Unofficial) 12/6/2011 3:29:00 PM

NA10

withdrew its state applications, wasting state staff and public time and effort, and costing the public considerable expense. Four-and-a-half years later, Downeast LNG still has not reapplied for State of Maine permits.

**Violation of the Public Interest**

Downeast LNG has repeatedly and unapologetically failed to meet FERC information request deadlines, unreasonably stretching out the permitting process, placing an undue burden on the public. The company wasted state government effort and public time, effort, and money on a state permitting process that was ultimately aborted.

In one month, Downeast LNG will have been in the combined FERC pre-filing and formal-filing process **for six years**. Even when Downeast LNG entered FERC pre-filing at the beginning of 2006, three regional LNG import terminals were already as many as 5–6 years ahead in their own permitting, mooted the purported need for Downeast LNG. Those three terminals were subsequently permitted, constructed, and commissioned, and are running at mere fractions of their capacity due to lack of need. Over the period since 2006 the domestic natural gas supply has massively reversed itself. The US now has 27 times more LNG import capacity than is projected to be needed for 2012, and that need is projected to continue dropping. There is so much domestic natural gas available, and so many surplus LNG import terminals largely sitting idle — even in the Northeast Region — that the Downeast LNG proposal is obviously not in the public interest.

The US Department of Energy indicates that LNG *export* terminals are now in the public interest. The pre-existing LNG terminal that Downeast LNG held up as a model, Dominion Cove Point LNG in Maryland — after importing so little LNG in the past year that it was in danger of becoming decommissioned — is attempting to export LNG, supplied from the massive, prolific Marcellus shale field. Natural gas pipeline imports from New Brunswick are declining. Maine is expanding its natural gas distribution infrastructure, taking advantage of access to plentiful natural gas. Meanwhile, Downeast LNG continues to drag its feet in answering FERC's permitting questions.

**Request Downeast LNG Dismissal**

Many-times-redundant and deadline-abusive Downeast LNG is clearly contrary to the public interest. Save Passamaquoddy Bay requests that FERC dismiss Downeast LNG's applications for chronically failing to provide timely answers to permitting questions.

NA10-1

Robert Godfrey  
Researcher & Webmaster

CC: FERC Downeast LNG Service List  
Daniel McAdam, Department of Energy Office of Inspector General  
Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud

NA10-1 FERC staff typically request a response to an Environmental Data Request within 20 days from the date of issuance. These requests typically state that if certain information cannot be provided within the specified time frame, the applicant should indicate which items would be delayed and provide a projected filing date. In most instances where Downeast did not provide the requested information within the specified timeframe, they did respond in a timely manner stating their intention to file the requested information. Delays in providing responses does, however, delay the overall review timeline.

20111221-5069 FERC PDF (Unofficial) 12/21/2011 10:25:27 AM



NA11

**Save Passamaquoddy Bay**  
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Kimberly D. Bose, Secretary  
 Federal Energy Regulatory Commission  
 888 First Street, NE Room 1A  
 Washington, DC 20426

eFiled on 2011 Dec 21

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000 and CP07-53-001**

Dear Ms. Bose,

Even as Downeast LNG filed responses to FERC's 2011 October 18 Environmental Information Request, the applicant has continued its chronic deadline abuse.

FERC's deadline for answers to its October request was November 8. Not until November 8 did Downeast LNG respond without answering the outstanding questions, but indicated it would provide answers "no later than December 1, 2011." Then, on December 1, Downeast LNG answered only one of the 14 questions.

In its latest filing on December 19, Downeast LNG provided responses; however, at least four of those responses did not satisfy the request (Questions 3, 4 [the response being merely a draft], 6 [refusing to answer until Maine permitting commences], 8 [current 2011 port data was omitted], and possibly 7). This time, Downeast LNG has promised to answer Question 3 by December 31, 2011. The applicant did not indicate, however, when or if it would provide answers to the other three or four outstanding questions.

Of additional importance is Downeast LNG's response to Question 10, attaching the Coast Guard response regarding Waterway Suitability. The Coast Guard confirmed that the assessment has not changed, meaning the onus remains on Downeast LNG to obtain cooperation and coordination for secure LNG transits through Canadian waters — something that Canada is not obligated to supply under any treaty, including the UN Convention on the Law of the Sea. Canada has repeatedly and resolutely indicated at the highest level that it will not allow LNG transits into and through Passamaquoddy Bay, indicating no Canadian cooperation or coordination will be forthcoming. Downeast LNG cannot receive LNG.

NA11-1

NA11-1 We recognize that Canada has concerns relating to LNG vessel passage through its waters. However, the Commission has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal.

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NA11

Also, Downeast LNG's Rob Wyatt has represented in the news media that the applicant will not file applications with the State of Maine until it has obtained a final Environmental Impact Statement (FEIS):

"Downeast LNG anticipating FERC approval," The Calais Advertiser, 2010 September 2

*"I want the final EIS in hand before we approach the State with our applications. That is because if we learn there are things to change, we will have that in progress before we submit the applications."*

Since Downeast LNG has indicated to FERC that it will not answer Question 6 until state permitting commences, but also indicated it will not commence state permitting until a FEIS is issued, the applicant is presuming FERC will issue an FEIS before all EIS requirements are fulfilled.

Downeast LNG...

- 1) Presumes to dictate that FERC will issue an incomplete Final EIS;
- 2) Cannot comply with US Coast Guard safety and security requirements to receive LNG;
- 3) Refuses to obtain consent from native tribes that have rights in the waterway; and
- 3) Chronically abuses FERC deadlines, dragging out the process.

Since the US has many decades of domestic natural gas supply, Downeast LNG's proposal is unneeded and obviously contrary to the public interest. Plus, Downeast LNG continues its abuse of FERC deadlines. Save Passamaquoddy Bay again requests that FERC dismiss the applicant without prejudice.

NA11-2

Robert Godfrey  
Researcher & Webmaster

CC: Daniel MacAdam, DOE Office of Inspector General  
Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud  
FERC Downeast LNG Service List

NA11-2 Project need is addressed in section 1.1 of the final EIS, and will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project. See also response to comment NA10-1.



## NA12 Save Passamaquoddy Bay

20090622-4004 FERC PDF (Unofficial) 06/22/2009

NA12

From: Robert Godfrey [info@savepassamaquoddybay.org]  
Sent: Monday, June 22, 2009 2:47 PM  
To: Shannon Crosley  
Subject: Re: Request for Higher-resolution Graphics

Shannon,

Since the FERC Downeast LNG DEIS Comment Deadline is July 6, and to avoid further delay, I have filed a CEII request and a FOIA request for these files. NA12-1

Robert Godfrey  
researcher & webmaster  
Save Passamaquoddy Bay 3-Nation Alliance  
(US - Passamaquoddy - Canada)  
www.SavePassamaquoddyBay.org

On Jun 22, 2009, at 2:29 PM, Shannon Crosley wrote:

I am looking into higher resolution graphics. If we have them, they will be posted to eLibrary so everyone may have access to them.  
Shannon

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From: Robert Godfrey [mailto:info@savepassamaquoddybay.org]  
Sent: Thursday, June 18, 2009 1:41 PM  
To: Shannon Crosley  
Cc: Ron Shems; Rebecca Boucher  
Subject: Re: Request for Higher-resolution Graphics

Shannon,

As I indicated, the figures available in the DEIS and on FERC's eLibrary are of low resolution. Details are pixilated.

Is it possible to obtain copies of these two figures in high resolution, so that we can easily read the information?

This is merely a request to obtain published public information, but in a form that is otherwise unavailable. You didn't post my requests for additional copies of the EIS. I'm curious as to why you are posting this to the Docket. Please explain.

Thanks!

Bob

Robert Godfrey  
researcher & webmaster  
Save Passamaquoddy Bay 3-Nation Alliance  
(US - Passamaquoddy - Canada)  
www.SavePassamaquoddyBay.org

NA12-1 Comment noted.

20090622-4004 FERC PDF (Unofficial) 06/22/2009

NA12

On Jun 18, 2009, at 12:01 PM, Shannon Crosley wrote:

Mr. Godfrey,

It was good to meet you in person as well. All information is publicly available, including these figures, in the DEIS and on eLibrary. I will be posting this email correspondence to eLibrary as well.

Thanks,  
Shannon Crosley

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From: Robert Godfrey [mailto:info@savepassamaquoddybay.org]  
Sent: Wednesday, June 17, 2009 7:56 PM  
To: Shannon Crosley  
Cc: Ron Shems  
Subject: Request for Higher-resolution Graphics

Shannon,

It was good to finally meet you in person in Robbinston on Tuesday. I hope your trip back to Washington was pleasant.

I'm wondering if I can obtain higher-resolution versions of two graphics that appear in the DEIS:  
Figure 4.12-1 Thermal Radiation Exclusion Zones for Storage Tanks  
Figure 4.12-2 Thermal Radiation Exclusion Zones for Spill Impoundments

It is difficult to read the details of these two Figures at the printed and PDF resolution. We are making this request for use in our DEIS Comments.

Electronic versions would be fine, if you would instruct me on how to download them.

Many thanks!

Bob

Robert Godfrey  
researcher & webmaster  
Save Passamaquoddy Bay 3-Nation Alliance  
(US - Passamaquoddy - Canada)  
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20120314-5067 FERC PDF (Unofficial) 3/14/2012 2:25:11 PM

NA13



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Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2012 March 14

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

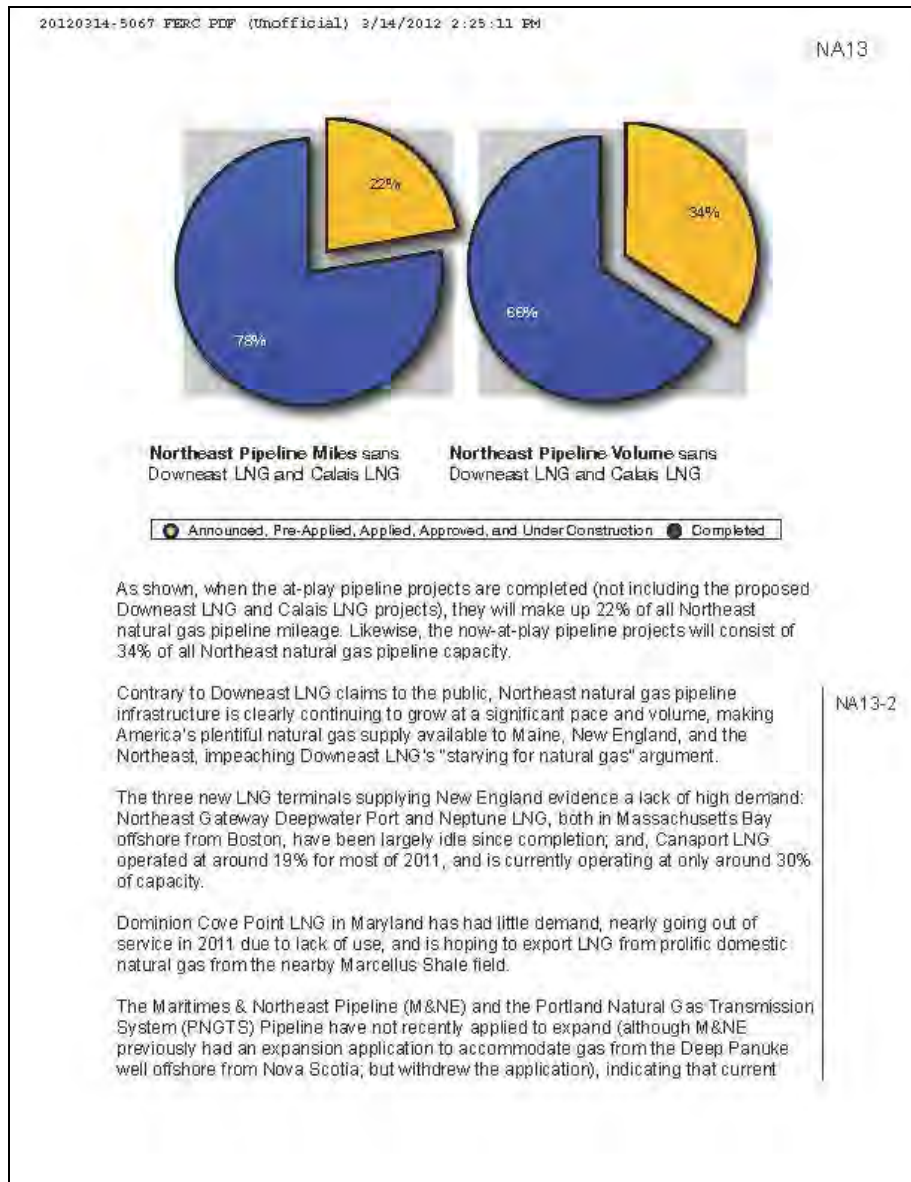
Downeast LNG has been claiming to the public that New England and the Northeast are "starving for natural gas." Actual evidence demonstrates otherwise.

The Energy Information Administration (EIA) natural gas pipeline data (2\_EIA\_Natural\_Gas\_Pipeline\_Projects.xls file attached) contradicts Downeast LNG's claims. The EIA's 2012 February 30th release-date "Natural Gas Pipeline Projects" spreadsheet contains data from 1997 to the present. Not including pipelines proposed by Downeast LNG and Calais LNG, there are currently 28 new pipeline and pipeline expansion projects currently at play in the Northeast, to deliver plentiful domestic natural gas supply to the region.

The data identified as being within the Northeast Region has been extracted into a separate spreadsheet document (3\_EIA\_Northeast\_Projects.xls Excel spreadsheet file is attached). Pipeline projects not yet completed are designated with red type. The Downeast LNG and Calais LNG proposed projects are within a light yellow field. Then, two pie charts were generated comparing mileage and pipeline volume capacity between incomplete natural gas pipeline projects and completed projects. The pie charts appear at the top of the following page, as well as in the spreadsheet.

NA13-1

NA13-1 The referenced attachments (180 pages) are not included in this appendix of the FEIS. They are available for review on the FERC's eLibrary under docket number CP07-52 (accession number 20120314-5067).



NA13-2 Project need is addressed in section 1.1 of the final EIS, and will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

20120314-5067 FERC PDF (Unofficial) 3/14/2012 2:25:11 PM

NA13

volumes of supply are sufficient to meet demand. Should demand increase, those pipelines can apply for expansion permits, and the existing LNG import terminals have considerable unused capacity to be called upon. Additionally, Canaport LNG has massive winter storage capacity.

NA13-2  
cont'd

Canaport LNG cancelled its fourth LNG storage tank due to lack of demand. Tellingly — essentially admitting lack of demand — Downeast LNG is now proposing just one LNG storage tank rather than the two it originally announced.

The EIA's 2012 March 6 Short-Term Energy Outlook (see attached file: 4\_EIA\_Short-Term\_Energy\_Outlook\_2012Mar6.pdf) states that natural gas imports to the Northeast are merely "marginal" —

*"The warm winter in the United States also adds to the year-over-year decline in imports, particularly to the Northeast, where imported natural gas is often a marginal source of supply."*

FERC takes the position that constructing new LNG import facilities is in the public interest — even when the domestic natural gas supply is now overwhelming, driving prices down and spawning LNG **export** proposals in what may be 100-years' worth of domestic supply, according to numerous sources involved with the natural gas industry, including sources at FERC and the EIA.

It is now clear that FERC's "new LNG import terminals are in the public interest" policy is counterproductive, no longer makes sense, and should be abandoned.

The Coast Guard's Waterway Suitability Assessment and Letter of Recommendation requirements also indicate that Downeast LNG cannot comply with essential waterway safety and security. The Coast Guard requires the applicant to obtain cooperation and coordination from the Government of Canada for safe and secure transits through both Canadian and US waters to and from the proposed terminal — something that Downeast LNG cannot provide.

NA13-3

NA13-3 See response to IND18-4.

Neither maritime treaties between the US and Canada nor the UN Convention on the Law of the Sea (UNCLOS) obligate Canada to provide the Coast Guard-required cooperation and coordination for safe and secure transits imposed on Downeast LNG. It has been known since 2007 that Canada is firmly opposed to providing such cooperation and coordination, and has repeatedly stated that it will take every legal means to prevent LNG transits to the Downeast LNG terminal.

Despite knowing for at least five years that LNG transits to the Downeast LNG terminal are prohibited and impossible, Downeast LNG has failed to cure this failing. The proper solution to enhance project success would have been to relocate to a site that conforms to the Society of International Gas Tanker and Terminal (SIGTTO) terminal siting best safe practices, avoiding Canada's prohibition — siting outside of Passamaquoddy Bay. Abiding by SIGTTO best practices would have cured Downeast LNG's inability to obtain

## NA13 Save Passamaquoddy Bay

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20120314-5067 FERC PDF (Unofficial) 3/14/2012 2:25:11 PM

NA13

LNG. Instead, Downeast LNG has elected to fight Canada, ensuring the inability to obtain LNG — guaranteeing project failure.

The Downeast LNG application to construct another new LNG import terminal — in a region and country that is already well supplied, has a surplus of capacity, has pipeline capacity expansion capability, and is in a location that is prohibited by Canada and, therefore, by the US Coast Guard, from obtaining LNG — should be viewed by FERC as what it really is. Downeast LNG is an applicant that is unnecessarily consuming federal and public resources in permitting that is contrary to the public interest.

Save Passamaquoddy Bay requests that FERC deny Downeast LNG's applications. | NA13-4

Very truly,

Robert Godfrey  
Researcher & Webmaster

Attachments: **2\_EIA\_Natural\_Gas\_Pipeline\_Projects.xls**  
**3\_EIA\_Northeast\_Projects.xls**  
**4\_EIA\_Short-Term\_Energy\_Outlook\_2012Mar6.pdf**

CC: Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
FERC Calais LNG Service List

NA13-4 Comment noted.

20120316-5043 PERC PDF (Unofficial) 3/16/2012 11:39:02 AM

NA14



**Save Passamaquoddy Bay**

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Washington, DC 20426

eFiled on March 16

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Supplement to Accession No. 20120314-5067**

Dear Ms. Bose,

Supplemental to Save Passamaquoddy Bay's March 14 comment filing is the attached Gas Daily article of 2012 January 18, "Spectra announces suite of Northeast projects." Quoting from that article...

*"In 2015, the AIM project — an expansion of Spectra's Algonquin Gas Transmission pipeline delivering gas into New England from Texas Eastern and Maritimes & Northeast — is expected to come online, moving northeastern Pennsylvania gas deeper into the Boston market."*

Spectra Energy will be expanding natural gas pipeline capacity, delivering more domestic natural gas to the Boston area, further reducing the need for imports. That provides more evidence that pipeline capacity expansion is readily possible to meet demand, contrary to claims by applicant Downeast LNG.

NA14-1

Robert Godfrey  
Researcher & Webmaster

Attached: "Spectra announces suite of Northeast projects," Gas Daily, 2012 Jan 18

CC: Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
Service List

NA14-1 The potential for capacity expansion of the Algonquin pipeline system to serve as an alternative to the proposed project is discussed in section 3.3.1 of the EIS. Section 3.3.1 of the final EIS has been updated to include discussion of the recently contemplated Algonquin Incremental Market (AIM) project. As described in the final EIS, the AIM project would not meet the Downeast LNG Project objectives of providing a source of imported natural gas and additional natural gas storage facilities and therefore, we do not believe it is a feasible alternative.



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NA15

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Re: Downeast LNG, Inc., ) Docket Nos. CP07-52-000;  
Downeast Pipeline, LLC ) CP07-53-000; CP07-54-000;  
) CP07-55-000

INTERVENORS SAVE PASSAMAQUODDY BAY AND  
NULANKEYUTOMONEN NKIHTAHKOMIKUMON'S  
FOIA REQUEST  
OR IN THE ALTERNATIVE  
OBJECTION TO AND REQUEST FOR PUBLIC RELEASE OF CLAIMED  
CONFIDENTIAL INFORMATION

Intervenors Save Passamaquoddy Bay ("SPB") and Nulankeyutomonen Nkihtahkomikumon ("NN") hereby request that FERC publicly release Downeast LNG's March 2, 2011 submission in the above-mentioned dockets. Without any justification, Downeast LNG claimed that filing as confidential. SPB and NN formally and primarily request release of this info under FOIA. Alternatively, SPB and NN request release of the filing under Commission Rules.

NA15-1

On February 15, 2011, the Director of the Office of Energy Projects of the Federal Energy Regulatory Commission ("Commission") issued a letter to Downeast LNG requesting information about the current status of the company's property rights to the proposed terminal site. Specifically, the Commission requested the status of the Downeast LNG's "rights to the proposed terminal site and its plans to exercise those rights," as well as details of any changed circumstances. (Accession No: 20110215-3008).

On March 2, 2011, Downeast LNG submitted a response, but claimed it commercially sensitive, confidential business information. Downeast LNG requested confidential treatment of the entire submission pursuant to 18 C.F.R. § 388.112. (Accession Nos: 20110302-5125 and 20110302-5126). On March 3, Ronald S. Rosenfeld requested that the Commission review Downeast LNG's March 2 filing and make it public, since particulars regarding the same issue had been previously made public in the DEIS. (Accession No. 20110303-5049).

SPB and NN request that Downeast LNG's March 2, 2011 response be made public in its entirety under FOIA, or alternatively, because Commission Rules do not allow such information to be confidential.

NA15-1 On March 2, 2011, Downeast filed certain information as confidential in response to FERC staff's data request in regard to its property rights for the proposed terminal site. However, on March 16, 2011, Downeast filed information that responded to FERC staff's request as public.



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The public has a right to such basic information. SPB and NN are intervenors in this docket entitled to service of all filings. Downeast LNG proffered no justification for its privileged and confidential claim. Further, while "privileged or confidential . . . trade secrets and commercial or financial information" may be exempt from disclosure under FOIA, the information submitted by DeLNG is not subject to this exemption because, as explained below and among other reasons, this information is basic to DeLNG's application. Further, it is in axiomatic that the submitter must provide justification for the claim. 5 U.S.C.A. § 552(b)(4); *see, e.g., N.C. Network for Animals v. USDA*, No. 90-1443, slip op. at 8-9 (4th Cir. Feb. 5, 1991) (noting absence of sworn affidavits or detailed justification for withholding from submitters and finding evidence insufficient).

The Commission's regulations require those who request confidential treatment of material to "file a statement requesting . . . privileged treatment for some or all of the information in a document, and the justification for special treatment of the information." 18 C.F.R. § 388.112(b). In its March 2 filing, however, Downeast LNG provided no justification whatsoever for its request. Instead, the company simply and baldly asserted the information was confidential. In a similar situation, the Commission stated that justification for such requests must be made "with specificity," rejected a company's unsupported request, and released the information to the public:

Section 388.112(b)(1) requires a person requesting privileged treatment for information to justify the request. The request must be supported with specificity rather than vague and speculative assertions of harm. Algonquin asserts, without explanation, that the precedent agreements contain commercially sensitive information. Accordingly, under section 388.112(e) of the Commission's regulations, Algonquin is hereby notified that its request for privileged treatment is denied. The information will be released no sooner than five days from the date this order is issued.

*Algonquin Gas Transmission, LLC*, 130 FERC P 61011, Docket Nos. CP08-420-000, CP08-420-001 "Order Granting Abandonment and Issuing Certificate," at 9-10 (Jan. 5, 2010).

Finally, several essential Commission filing requirements require disclosure of the interest in land required for a project, including specifically for LNG

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import/export facilities. *See, e.g.,* 18 C.F.R. §§ 157.21(d)(2) (requiring description of availability of the proposed site and marine facility location) and 380.12(c)(2)(i)(A) (requiring a brief description of each facility including ownership and land requirements). None of these filing requirements indicate that such information may be considered privileged and confidential.

Accordingly, NN and SPB ask the Commission to release the information pursuant to this formal FOIA request or, alternatively, deny Downeast LNG's request for confidential treatment, asserted by the company without justification, and release the March 2, 2011 submission in its entirety as soon as possible.

On March 16, 2011, Downeast LNG filed publicly accessible Supplemental Information regarding its option on the project site property. (Accession No: 20110315-5168). However, Downeast LNG failed to respond the Commission's request for the company's "plans to exercise" the rights to the terminal site and did not provide "details of any changed circumstances." NN and SPB also request that the Commission require, as the Commission requested on February 15, that Downeast LNG disclose its "plans to exercise" its option rights and the details of any changed circumstances.

March 25, 2011 Save Passamaquoddy Bay  
Nulankeyutomonen Nkihtahkomikumon

by:



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NA16



# Save Passamaquoddy Bay

A 3-Nation Alliance  
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Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2012 May 4

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

On May 2, Downeast LNG filed to the docket (Accession No: 20120502-5120) regarding the Society of International Gas Tanker and Terminal Operators (SIGTTO). Downeast LNG mentions Save Passamaquoddy Bay's references to SIGTTO terminal siting best safe practices.

In the May 2 filing, Downeast LNG president Dean Girdis included a generic letter from SIGTTO general manager W.S. Wayne, dated May 2012. What is significant in the letter is what is not stated. It is simply a "to whom it may concern" statement of SIGTTO purpose. What is missing is any indication from SIGTTO that Downeast LNG's project complies with SIGTTO terminal siting best practices.

On 2004 May 26, SIGTTO then-manager James A. MacHardy sent a letter to FERC (see included file 02\_SIGTTO\_Letter2FERC\_2004May26.pdf). In that letter, SIGTTO writes [bold emphasis has been added]...

*"The Society of International Gas Tanker and Terminal Operators [SIGTTO] was formed in 1979 to encourage safe and responsible operation of liquefied gas tankers and marine terminals handling liquefied gas; to develop advice and guidance for best practice among its members and promote criteria for best practice to all who have responsibilities for, or an interest in, the continuing safety of gas tankers and terminals."*

...

*"SIGTTO is willing to work with FERC in whatever way to reach a better understanding of the safe and efficient operation of carriers and terminals designed to handle LNG."*

...

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*"The Society does not seek to promote the sectional interests of any of its Members, nor will it compromise technical standards to secure commercial advantage for any one party."*

*"SIGTTO understands that public confidence in the safe transportation and handling of liquefied gas is essential for its acceptance and growth as a major component of world energy supplies. All parties involved in these operations share a single common interest in ensuring the technical integrity and operational security for the international transportation chain for liquefied gas."*

SIGTTO "was formed to promote criteria for best practice to all who have ... an interest in the continuing safety of gas tankers and terminals." Also, SIGTTO does not promote the "secular interests" of any individual members, and will not "compromise technical standards to secure commercial advantage for any one party."

In other words, SIGTTO will not comment on any individual project's adherence to SIGTTO best practices. Instead, it is left to others to compare a particular project with those best practices. Publications of SIGTTO's best practices are available for purchase by any interested party. Save Passamaquoddy Bay has bought those publications related to LNG terminal siting, and has compared Downeast LNG's proposed project to those best practices. Since SIGTTO leaves best practices-compliance determination to others, that is exactly what Save Passamaquoddy Bay has done.

Mr. Girdis implies that Save Passamaquoddy Bay has somehow been representing itself as a spokesperson for SIGTTO. Save Passamaquoddy Bay's comments to FERC regarding SIGTTO terminal siting best safe practices are clearly in keeping with SIGTTO's stated intent in the interest of public- and LNG-industry safety.

On the other hand, Downeast LNG disregarded SIGTTO best practices in its site selection, and has enlisted a generic letter from SIGTTO when Downeast LNG, itself, is apparently not a member of that organization. See SIGTTO's online list of its members <<http://www.sigtto.org/SIGTTO/Members>> (file: 03\_SIGTTO\_Membership\_List\_2012May03.pdf).

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NA16-1 See response to comment IND30-4.

Save Passamaquoddy Bay recognizes SIGTTO's expertise in matters of LNG tanker and terminal best safe practices. Save Passamaquoddy Bay advocates adherence to those best practices, and advocates that Congress, FERC, the Department of Transportation, and the Coast Guard incorporate SIGTTO best practices wisdom in helping to keep the US public and the LNG industry safe.

In 2006, Downeast LNG president Dean Girdis revealed his lack of knowledge of SIGTTO best practices when his project site was chosen, resulting in tens of site- and transit-specific noncompliance with those best safe practices due to site location. Had Downeast LNG adhered to industry best practices when selecting its project site, it would not be proposing to use Passamaquoddy Bay. It would have proposed locating other than in Passamaquoddy Bay where it would not be facing the longstanding and

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firm prohibition by the Government of Canada now preventing Downeast LNG from ever receiving LNG.

See the 2006 March 9 Bangor Daily News article, "Regulators advance review process for LNG proposal"...

*Dean Girdis, president of Downeast LNG disagreed. "I don't know the law per se. My understanding is that SIGTTO refers to tankers and not terminals," he said. "We at Downeast will comply with all federal and state safety standards required for the LNG terminal and we will comply with all Coast Guard regulations relative to transit."*

<<http://pqasb.pqarchiver.com/bangor/access/1000275641.html?FMT=ABS&FMTS=ABS:FT&type=current&date=Mar+9%2C+2006&author=DIANA+GRAETTINGER%3BCE+THE+NEWS+STAFF&pub=Bangor+Daily+News&edition=&startpage=2&desc=Regulators+advance+review+process+for+LNG+proposal>>

SIGTTO's best practices specifically apply to terminals, as evidenced in their best-practices publication, "Site Selection and Design for LNG Ports and Jetties." The first sentence of the Summary states...

*"This paper addresses safety issues for LNG ports."*

Later in the Summary, SIGTTO states...

*"Important matters which should be dealt with when choosing the location of a new terminal are covered in the paper."*

There is no question that SIGTTO best practices do specifically apply to LNG terminals. Mr. Girdis revealed he was not versed on SIGTTO LNG terminal siting best practices when he made his proposed site selection.

In 2006, Save Passamaquoddy Bay made extensive comments identifying Downeast LNG's numerous instances of SIGTTO terminal siting best safe practices noncompliance. See Prefiling Docket Number PF06-13, Accession Number: 20060309-5002...

<<http://elibrary.ferc.gov/dmws/common/OpenNat.asp?fileID=10870011>>

Following is a condensation of SIGTTO terminal siting best practices (cited in more detail in the Docket Filing mentioned above), compared with the proposed Downeast LNG project, illustrating that Downeast LNG's site is unsuitable according to SIGTTO terminal siting best safe practices.

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1. **SIGTTO:** Site the terminal where berthed LNG tankers do not present a collision threat from heavy displacement ships that share the operating environment. All port traffic presents an ignition risk. Place the terminal in a sheltered location remote from other marine traffic. Site where surging and ranging along the jetty from other ships' wake cannot occur.

It is essential that all terminals designated for the transfer of LNG fully comply with recommended criteria. To do otherwise needlessly increases the risks of interface failure and consequential release of LNG.

**Downeast LNG:** The LNG ship's berth would be approximately 3,862 feet from shore, near the mouth of the Saint Croix River where heavily-laden cargo vessels already transit to and from the Port of Bayside, New Brunswick, Canada, presenting a potential allision, wake, ranging, and ignition hazard.

2. **SIGTTO:** Locations that already attract other craft, including pleasure craft and fishing vessels, are inherently unsuitable for LNG terminals. In such circumstances enforcement (of the exclusion zone) is highly problematical and, even with strenuous enforcement effort, may ultimately fail.

**Downeast LNG:** The proposed terminal site is in an area already being used by US, Passamaquoddy Tribal, and Canadian commercial carriers, pleasure craft, and fishing vessels. The LNG vessel transit route would also disrupt business and pleasure traffic on ferry services between the US and Canada.

3. **SIGTTO:** Short approach channels are preferable to long inshore routes which carry more numerous hazards.

**Downeast LNG:** The transit route from Head Harbour Light to the Downeast LNG berth is approximately 17 miles long in an enclosed waterway lined with communities of two countries as well as the Passamaquoddy Tribe. There are at least four locations along the transit fairway that present hazardous rock outcroppings. The largest whirlpool in the Western Hemisphere (Old Sow Whirlpool) occurs in the transit "choke point" (narrowest part of the transit waterway), where Clark Ledge and Dog Island also present hazards.

4. **SIGTTO:** Due to ignition, ship strike, and wake hazards, no ships should pass nearby while LNG is being pumped from a ship to the terminal.

**Downeast LNG:** Ships transiting to the port of Bayside, New Brunswick, Canada would be disrupted. Fishing vessels and pleasure craft would be disrupted.

5. **SIGTTO:** Terminal siting where any gas escape would affect local populations is unacceptable.

**Downeast LNG:** Civilian populations in Canada and the US would be engulfed in Department of Energy LNG ship Hazard Zones along the entire transit route from Head Harbour Light on Campobello Island, New

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Brunswick, Canada, to the Downeast LNG berth in Robbinston, Maine. Communities that would fall within those Hazard Zones are: Wilson's Beach, Campobello Island, NB; Leonardville, Deer Island, NB; all residents of Indian Island, NB; all residents of Eastport, Maine; all residents of Sipayik (Pleasant Point Passamaquoddy Reservation) — creating a genocide potential for this tribal community; Clam Cove, Deer Island, NB; Fairhaven, Deer Island, NB; Perry, ME; Robbinston, ME; and St. Andrews, NB.

Included in those Hazard Zones would be: schools, medical facilities, elderly housing, emergency responder facilities, business districts, and residential districts.

The illustration on the following page is from the accompanying FERC Docket filing by the US Coast Guard (file: **04\_USCG\_DeLNG\_Hazard\_Zones\_20090106-4001**). It shows the Downeast LNG ship Hazard Zones along the entire transit route. Significant swaths of populated areas in both New Brunswick, Canada, and Maine would be needlessly subjected to the associated hazards — cryogenic, asphyxiation, fire burns, thermal radiation burns, and explosion, as well as associated hazards to civilian assets.

Note that Hazard Zone 1 — the zone with the most severe hazards — extends over residential, business, and recreational areas in New Brunswick, Canada, as well as part of a residential area in Eastport, Maine.

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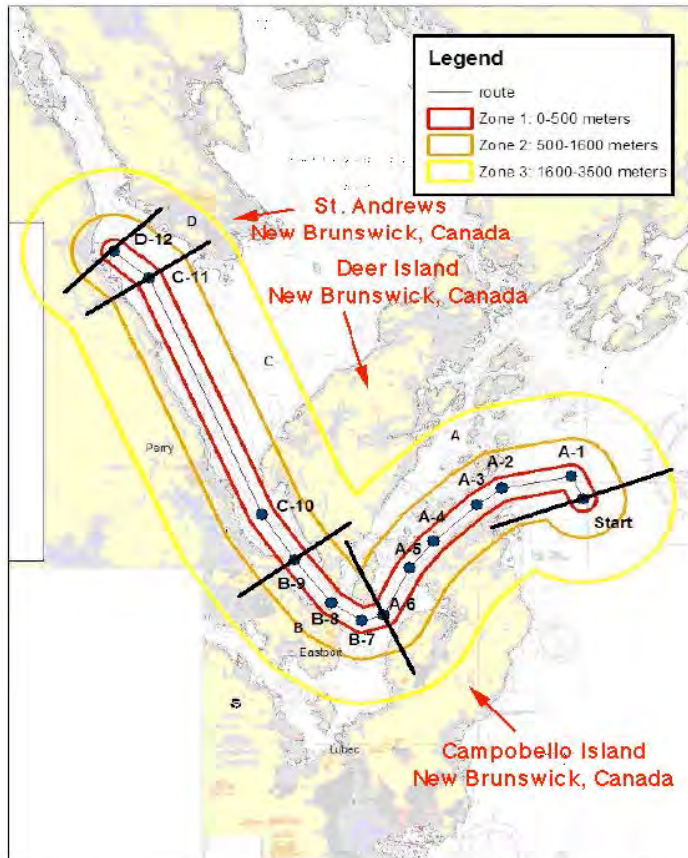


Illustration from PDF page 6 (page numbered as "27") of the Redacted version of accompanying Coast Guard document (04\_USCG\_DeLNG\_Hazard\_Zones\_20090106-4001), showing the three federally-defined Hazard Zones from an "intentional release" that would accompany Downeast LNG ships. (Canadian community labels have been added in red by Save Passamaquoddy Bay.)

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20120504-5180 FERC PDF (Unofficial) 5/4/2012 4:39:00 PM

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In the 2006 March 9 Bangor Daily News article, Downeast LNG president Dean Girdis referred to SIGTTO best practices as "laws" — a term of reference that Save Passamaquoddy Bay has never made. Without misrepresenting itself, Save Passamaquoddy Bay has commented on its observations about the Downeast LNG proposal compared to SIGTTO. Downeast LNG is projecting its own failings onto Save Passamaquoddy Bay.

#### Conclusion

Downeast LNG's May 2 Docket filing does nothing to support or advance the company's desire to locate in Passamaquoddy Bay. In fact, the filing does the opposite, demonstrating beyond doubt that the Downeast LNG proposal is in conflict with the industry's own terminal siting best safe practices.

A Downeast LNG project site selection conforming to SIGTTO terminal siting best safe practices would have alleviated the above hazards to the public.

NA16-1  
cont'd

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
Service List

-7-

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

NA17



# Save Passamaquoddy Bay

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(US • Passamaquoddy • Canada)

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eFiled on 2012 May 25

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

Save Passamaquoddy Bay herein rebuts Downeast LNG's April 24 comments (Accession No. 20120424-5054) regarding natural gas availability in New England and Downeast LNG's purpose and need claims.

On PDF page 3, under **Comment A, Downeast LNG's Response** includes the statement...

*"As requested by the Maine DEP, Downeast LNG will not file a site development permit with the State of Maine until the project has received authorization from FERC. Importantly as well, the Department of Environmental Protection's hearing concerned not the 'final step' in obtaining state permits, as stated by SPB, but instead represented the very first step in obtaining state permits coincident with the Maine permitting process." [Bold emphasis added.]*

## Save Passamaquoddy Bay Rebuttal:

Downeast LNG supplies no source for its claim that the Maine DEP requested that the applicant "not file a site development permit...until the project has received authorization from FERC." In fact, Downeast LNG's Dean Girdis contradicted that idea when he stated in the 2007 November 23 Quoddy Tides newspaper that the company would be reapplying for state permits the following year (2008)...

*"We will now be able to come back before the board next year [2008] with a new pipeline route and additional information that addresses concerns raised by board members following the public hearings held last summer." [Bold emphasis added.] <[http://www.savepassamaquoddybay.org/news\\_archives/2007/quoddy\\_tides/nov/2007nov23\\_bep.html](http://www.savepassamaquoddybay.org/news_archives/2007/quoddy_tides/nov/2007nov23_bep.html)>*

The Board of Environmental Protection (BEP) hearing — not the Department of Environmental Protection hearing, although the BEP is within the Department — was

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NA17-1 Section 1.3 and table 1.3-1 of the final EIS have been updated to include the current status of other permits, in addition to the authorization from the FERC that Downeast would need to obtain for the project. The referenced attachments (270 pages) are not included in this appendix of the FEIS. They are available for review on the FERC's eLibrary under docket number CP07-52 (accession number 20120525-5040).



a decision-making process to either approve or deny Downeast LNG's State of Maine permits.

Maine Assistant Attorney General Peggy Bensinger served in her official capacity as advisor to the BEP during the 2007 week-long hearing on Downeast LNG's state permit applications. In a telephone conversation with this writer on 2012 May 14, Assistant Attorney General Bensinger confirmed that **"the [BEP] vote would be the final step in approval"**; although, Downeast LNG would still need to obtain a submerged lands lease. Bensinger confirmed that BEP approval "would be practically the last step."

After going through the week-long state BEP hearing, and before the BEP rendered its permitting decision, Downeast LNG withdrew its state permit applications. Downeast LNG has still not refiled state applications, meaning Downeast LNG has not had any state permitting activity whatsoever since 2007 — now approaching five years of inactivity.

To compound this illogical wastefulness, in its April 24th FERC filing, Downeast LNG claimed the BEP hearing was the "first step" in the Maine permitting process. Downeast LNG has demonstrated a lack of truthfulness and credibility in its comments to FERC.

The Maine Bureau of Parks and Lands permitting rules do not allow for piers longer than 1,000 feet unless there is no reasonable alternative. Downeast LNG's proposed pier length would be roughly 3,860-feet long — **over a half-mile longer than allowed by the state's rules.**

On 2006 Apr 14, State of Maine Department of Conservation Submerged Lands Program Bureau of Parks and Lands supervisor Dan Prichard filed comments to the FERC Downeast LNG pre-filing docket. (Bold emphasis has been added.):

*"The proposed pier at Mill Cove in Robbinston is located in an area about 1 mile south of where the St. Croix River opens up into Passamaquoddy Bay and the waterway widens from approximately one mile to two miles across including both U.S. and Canadian waters. According to Downeast LNG officials, **the proposed pier would extend approximately 3,800 to 4,050 feet from shore**, or more than half the distance to the U. S. and Canadian boundary at this point. Ship berthing space and security zones around the facility would further reduce the U.S. waters open and available for other boating traffic and waterway users.*

*"As proposed, **the Downeast LNG pier would be over three times longer than the largest terminal facility currently in Maine waters.** The stated reason for the length is to reach the minimum necessary water depth (45 feet at mean low water) for berthing LNG tankers without the need for dredging.*

**"Under the Bureau's rules, structures may not extend more than 1000 feet from shore unless the applicant can document that no reasonable alternative exists. Given the length of Maine's coastline and the shallow depth and narrow waterway at the proposed terminal site relative to the navigation and berthing requirements of the LNG vessels, it is difficult to imagine that the proposed site is the most suitable. The Bureau recommends that the EIS and Waterway Suitability Assessment carefully examine the applicant's site selection criteria and methodology, and impacts to existing marine activities."**

See accompanying files:

**02\_Submerged\_Lands\_Lease\_Rules\_059c053.pdf**

**03\_Submerged\_Lands\_Comments\_20060504-0141(15278951).pdf**

Downeast LNG's pier is not permissible under Maine Submerged Lands Lease rules, as the applicant was warned way back in 2006. Downeast LNG has avoided seeking a Submerged Lands Lease.

- 1) Downeast LNG went entirely through the 2007 week-long BEP hearing before abandoning that permitting effort.
- 2) In 2007, Downeast LNG was warned by the Government of Canada that LNG transits into Passamaquoddy Bay are prohibited.
- 3) Downeast LNG's site cannot comply with LNG industry terminal siting best safe practices as published by SIGTTO (Society of International Gas Tanker and Terminal Operators).

Instead of taking the businesslike and responsible step of finding an appropriate replacement project site, Downeast LNG has continued for over five years to consume FERC and taxpayer resources on a project that cannot succeed.

On PDF page 5, under Comment C, Downeast LNG Response begins...

*"In Save Passamaquoddy Bay's (SPB's) submission<sup>1</sup>, they provide a list of all of the **745 FERC and NEB (National Energy Board of Canada) approved pipelines since 1997 throughout all of North America.** No assessment or discussion of these pipelines is presented; no analysis of the gas pipeline flows is presented; and no analysis of the ability of these pipelines to supply New England with an incremental and firm source of gas supply is presented. [Bold emphasis added.]*

*"SPB provides no gas flow analysis to assess pipeline data flows of the 28 pipeline projects and their respective ability to supply New England with incremental supplies of gas. Most of these pipelines are located in Pennsylvania, New York and other Mid-Atlantic states and are being proposed to connect shale gas reserves to the current gas transmission supply network. None of the 28 projects are located in New England and none of the projects will increase the net supply of gas to the region needed to meet future demand growth."*

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And, **PDF page 6**, under **Comment D, Downeast LNG Response** claims...  
*"...Pipeline capacity to New England continues to remain the same."*

**Save Passamaquoddy Bay Rebuttal:**

Within the previously mentioned list of **745 FERC and NEB approved pipelines since 1997**, there have been the following recent New England new pipelines and expansions:

NA17-2

2010 — Algonquin East-to-West Expansion, CT.  
 2009 — Iroquois Expansion Phase II, CT.  
 2009 — Algonquin Kleen Energy Lateral, CT.  
 2008 — Iroquois Market Access Project, CT (& NY).  
 2008 — Iroquois Expansion Phase I, CT (& NY).  
 2008 — Maritimes & Northeast Phase IV, ME & NB.  
 2008 — Neptune Lateral, MA.  
 2008 — Algonquin Ramapo, CT (& NJ).  
 2008 — TCPL Eastern Service Expansion, VT.  
 2007 — Algonquin Cape Cod Lateral, MA.  
 2007 — Algonquin Northeast Gateway, MA.  
 ...and several others prior to 2007.

This evidences that new pipelines and expansions have been occurring in New England on a fairly regular basis. It obviously refutes the idea that pipelines cannot be built or expanded in New England.

Additionally, ISO New England's 2011 Regional System Plan (see accompanying file of the plan, **04\_rsp11\_final\_2011Oct21.doc**) states...

**"Section 9.3 Expanding Natural Gas Supply and Infrastructure**

*"Six interstate natural gas pipelines make up the majority of gas transportation capacity into and within the region:*

- \*Algonquin Gas Transmission (AGT)*
- \*Tennessee Gas Pipeline (TGP)*
- \*Iroquois Gas Transmission System (IGTS)*
- \*Portland Natural Gas Transmission System (PNGTS)*
- \*Maritimes and Northeast (M&NE) Pipeline*
- \*Granite State Gas Transmission Inc.*

*"Several intrastate natural gas pipelines are located within New England, including the Vermont Gas System, Northern Utilities, and KeySpan Energy Delivery.*

*"As a result of the forecasted need for new, regional gas supplies, combined with the expansion of natural gas infrastructure, the natural gas industry has invested heavily in infrastructure enhancements in the northeastern United States and in eastern Canada. Some of these enhancements were driven by the need to*

NA17-2 The potential for capacity expansion of existing pipeline systems to serve as alternatives to the proposed project is discussed in section 3.3.1 of the EIS. Section 3.3.1 of the EIS has been updated accordingly since publication of the draft EIS.



deliver new LNG supplies to regional markets. More recently, work is being completed to access new gas supplies emanating from new sources, such as Marcellus Shale, which is geographically close to New England (see Section 9.3.2). In addition, development continues at the Deep Panuke project located in Atlantic Canada with a target commercial in-service date of sometime in 2011.

**"Section 9.3.1 LNG Supply Facilities**

"The reliability of natural gas supply to New England has improved and will continue to do so through the addition of new LNG terminals, natural gas pipelines, and regional gas storage facilities:

"Distrigas Import Terminal—This LNG import terminal is located on the Mystic River in Everett, MA; in 2010, the facility was the primary, sole-source supplier of LNG liquid trucking in the region. Distrigas is the sole supplier of natural gas to Mystic units #8 and #9.

"Northeast Gateway Deepwater Port—This facility, located offshore Gloucester, MA, imports LNG and provides regasification services. The infrastructure consists of a dual-submerged turret-loading buoy system with "approximately 16 miles of lateral pipeline connecting it into the HubLine Pipeline in Massachusetts Bay.

"Canaport Import and Storage Facility—This land-based LNG import and storage facility, in Saint John, New Brunswick, delivers regasified LNG through the Brunswick Pipeline for delivery into the Canadian and US gas markets via the M&NE Pipeline system.

"A third LNG storage tank [at Canaport] was commercialized in May 2010.

"Neptune Deepwater Port—Another LNG import terminal and provider of regasification services for the region is the new Neptune LNG deepwater port off the coast of Cape Ann. The facility received its first commissioning cargo in February 2010 and the second commissioning cargo in August 2010.

...

**"Section 9.3.3 New Pipelines and Storage**

"The Northeast Gas Association (NGA) maintains a list of regional natural gas pipeline, LNG, and storage projects that have been or are scheduled to be commercialized.

"During 2010, several regional natural gas pipeline projects were completed. Others are scheduled for commercial operation in 2011. Some of the infrastructure additions that may affect the reliability of natural gas to New England are as follows:

"Iroquois Pipeline—Wright Transfer Compressor Project; Summer 2012 (US and Canadian multiparty ownership)

"Tennessee Gas Pipeline—300 Line Project; first stage, November 2011 (El Paso)

"Tennessee Gas Pipeline—Northeast Supply Diversification Project; November 2012 (El Paso)

"All these projects are designed to improve the access to Marcellus Shale supplies and the deliverability of the supplies to New York and New England markets."

(ISO New England goes on to indicate concern with increasing its dependence on natural gas.)

Then, ISO New England summarizes...

**"Section 9.5 Summary**

"While natural gas remains the dominant fuel within New England's electric power generation sector, the region's diversity and expected reliability of natural gas supply has improved. This is the result of the new LNG terminals at Northeast Gateway Deepwater Port, the Canaport import and storage facility, and Neptune Deepwater Port. In addition, new expansion projects on the Iroquois and Tennessee pipelines have been designed to improve the ability to deliver natural gas from the Marcellus Shale basin to the region."

Clearly, ISO New England regards the natural gas pipeline capacity to New England, and New England natural gas storage, to have recently improved. It states that improvements include greater delivery of domestic natural gas from the Marcellus basin.

Downeast LNG's claims of a dire need for its proposed project are mooted by actual conditions, as indicated by ISO New England, and by recent history demonstrating that natural gas pipelines in and to New England can be added and expanded where and when needed, providing stable domestic supply, rather than requiring a growing reliance on LNG supplies from overseas, increasing the US trade imbalance being advocated by Downeast LNG.

There have been numerous LNG import terminals proposed for New England:

- Transcanada Pipelines Ltd., Cousins Island, Cumberland, ME
- Transcanada Pipelines Ltd., Hope Island, Cumberland, ME
- Cianbro, Gouldsboro, ME
- ConocoPhillips, Harpswell, ME
- Quoddy Bay LNG, Pleasant Point Reservation, ME
- Calais LNG, Red Beach, Calais, ME
- Weaver's Cove Energy, Fall River, MA
- Keyspan, Providence, RI

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

NA17

All of those proposals are gone. Downeast LNG is the sole remaining LNG import terminal project proposed in New England, in the United States, and in the entire North American Continent. Clearly, no new projects are needed.

On **PDF page 6**, under **Comment E, Downeast LNG Response** states...

"...Since 2008, total LNG imports into New England and New Brunswick have grown...."

"...LNG imports into the Everett LNG terminal near Boston have remained relatively constant between 2003-2010...."

"...New England is more reliant on imported LNG than it was just five years ago...."

and...

"New England is reliant upon LNG imports and this reliance will continue."

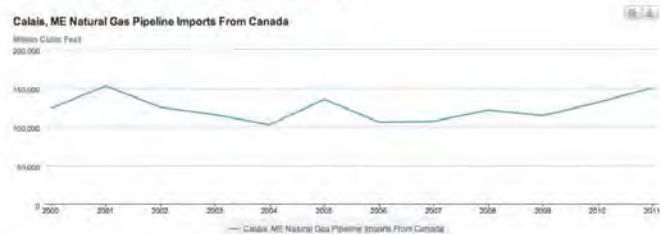
And, on **PDF page 9**, under **Comment I, Downeast LNG** states...

"...LNG imports to both the Everett and Canaport LNG terminals are expected to continue...."

#### Save Passamaquoddy Bay Rebuttal:

Downeast LNG admits in its comments (near the bottom of PDF page 19, under "Overview of the New England Natural Gas Market") that the Portland Pipeline is operating at just 30% of capacity. Natural gas imports at Calais, Maine, although higher in 2011 than over the past 10 years, are slightly below the import level in 2001, according to EIA data, as shown in **Figure 1**.

The Portland pipeline has the capacity to deliver more natural gas, if need required. And, imports from Canada have fluctuated back and forth since 2000, and are not much different now than they were 12 years ago.



Source: EIA <[http://www.eia.gov/dnav/ng/hist/ng1277\\_ycal-nca\\_2a.htm](http://www.eia.gov/dnav/ng/hist/ng1277_ycal-nca_2a.htm)>

Figure 1

Downeast LNG contradicts its own claim of no new pipelines in New England, when it points to Algonquin's project in "southern New England." Downeast LNG states in its Comment M on PDF page 12:

*"Spectra's proposed AIM project is still in the early stages of evaluation: the open season phase is not yet complete and it's not clear if the project will proceed to permitting. **Algonquin's (Spectra) proposed AIM project would increase pipeline capacity only to southern New England, south of the Boston Metro Area....**" [Bold emphasis added by Save Passamaquoddy Bay.]*

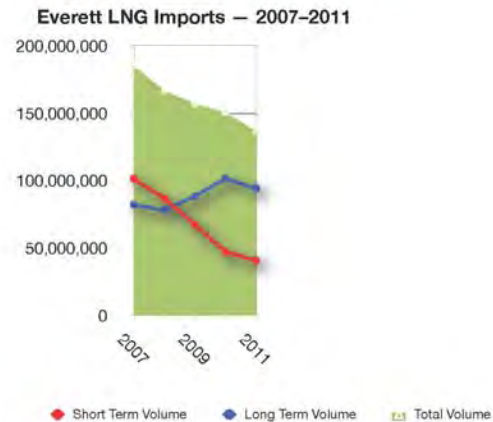
Downeast LNG is attempting to mislead. LNG imports into New Brunswick have grown since 2008, since New Brunswick had no LNG import facilities until Canaport LNG in New Brunswick went into service in June, 2009.

As indicated in **Figure 2** and in the accompanying files...

**05\_Everett\_Imports.pdf**, source: DOE

**06\_NA1278\_YETT\_2a.pdf**, source: EIA

...short-term imports at Everett LNG near Boston have fallen year-over-year since 2007, for a total short-term LNG-imports decline of 60%, while long-term imports have remained relatively constant. Total imports at Everett LNG for the last five years have declined steadily.



Data source: EIA

Figure 2

New England's reliance on LNG is being satisfied by existing LNG import and storage infrastructure. Rather than constructing Downeast LNG's proposed project when two of the new existing New England terminals (Northeast Gateway and

NA17-3

NA17-3 See response to comments NA11-2 and NA17-2.



Neptune LNG) are idle and the other New England terminal (Everett LNG) is steadily declining in imports, any growing demand for natural gas could be met more sensibly by improving regional pipeline delivery infrastructure. Doing so would supply New England with abundant, inexpensive, nearby domestic natural gas, rather than by increasing dependence on potentially unreliable overseas sources of LNG.

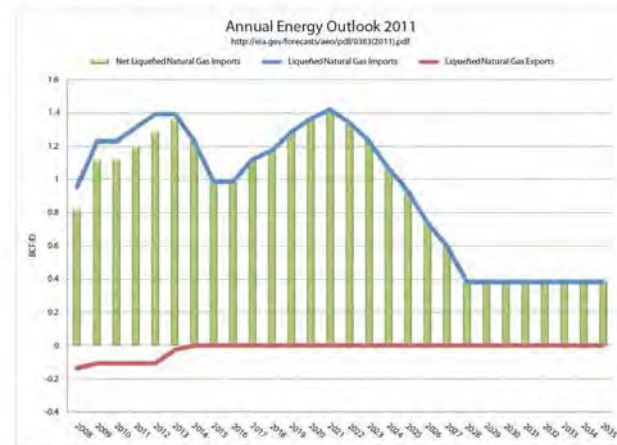
NA17-3  
cont'd

On PDF page 7, under **Comment F, Downeast LNG Response** states...

*Current pipeline utilization is no indication of future utilization or future gas demand requirements.*

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG has no prescience. The EIA projects that the need for LNG will fall precipitously, beginning around 2021 (see graph, **Figure 3**, below). Pipeline infrastructure in New England is the practical, common-sense solution to any natural gas demand growth.



Data source: EIA  
Figure 3

On PDF page 7, under **Comment F, Downeast LNG Response** states...

*"SPB's implication that pipeline constraint issues can be resolved by existing pipeline systems 'simply' applying for expansion permits is both rudimentary and unrealistic."*

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG argues that expanding and building new pipelines are onerously impractical. The 1999 installation of The Maritimes & Northeast Pipeline (M&NE) and the Portland Natural Gas Pipeline; the M&NE 2002 Phase IV expansion, and the numerous other interstate pipeline projects completed in New England and the Northeast in recent years (see list of [approved pipeline projects](#) in this letter) demonstrate that pipeline companies are willing to meet the permitting challenges, and that new pipelines and pipeline expansions are a practical solution. Even Downeast LNG, itself, as part of its proposed project is seeking pipeline permits to ship natural gas to Boston.

NA17-2  
cont'd

As stated in "Natural Gas Transportation - Infrastructure Issues and Operational Trends," by James Tobin of the EIA's Office for Oil and Gas, October 2001 (see attached file, **07\_Natural\_Gas\_Transportation\_Infrastructure.pdf**)...

*"The two new pipelines scheduled for 2002 are interrelated. The Maritimes and Northeast Phase III project (350 MMcf/d) would provide shippers of Sable Island (Canada) gas the option of shipping their gas directly to the Boston area via the Algonquin Pipeline system or as they do now, through the Tennessee Gas Pipeline system. Algonquin Pipeline Company would build a 295 MMcf/d pipeline, the Hub Line, from an interconnection with the new Maritimes and Northeast extension, to the Boston area. For its part, the Maritimes and Northeast Pipeline Company believes that demand will continue to grow in the area. It has announced that it intends to double its system capacity in 2004 if current natural gas demand projections hold up."* [Bold emphasis has been added]

In other words, M&NE was not daunted by pipeline expansion permitting in New England, and is prepared to take on pipeline expansion as needed, contradicting Downeast LNG pessimistic statements regarding pipeline expansion.

Beginning on PDF page 7, under **Comment J, Downeast LNG Response** seems to indicate that LNG vessels will not be required to abide by the Coast Guard's initial Waterway Suitability Assessment and Letter of Recommendation — that the latest Coast Guard Assessment obviates those previous obstacles.

Downeast LNG quotes the Coast Guard's response to its query on the matter...

*"In order for either Downeast LNG and Calais LNG to demonstrate that an effective security regime has been established for the Canadian portion of the vessel's planned route, and before a loaded LNG vessel is allowed to transit to the facility, Downeast LNG and/or Calais LNG must show that their vessels are provided with, and have the ability to implement, security measures as established and set forth in the International Maritime Organization's (MO) International Ship & Port Facility Security Code (ISPS) and Safety of Life and Sea Amendments of 2002 (SOLAS) that are at least equivalent to the level of security required for vessels transiting*

NA17

waters of the United States with similar characteristics (e.g. population, densities, key port area, critical infrastructure, etc)."

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG is well aware that the Government of Canada will provide no safety or security coordination or cooperation for the proposed LNG transits, back and forth between Canada and the US, through the multiple Canadian portions of the proposed transit route. The Coast Guard rule change that eliminated conditions in its Waterway Analysis and Letter of Recommendation (LOR) does not change reality. Canada has repeatedly stated from the highest level that it will use every legal means to prevent LNG transits into and through Passamaquoddy Bay. Canada is not legally required to provide safety and security coordination or cooperation for those transits. Therefore, Downeast LNG cannot provide the required safety and security of LNG ships in the Canadian waterway.

NA17-4

**An Observation re the Coast Guard's New Rules:**

The Coast Guard's new rules eliminate setting conditions in the Waterway Analysis and LOR. However, the safety and security realities of the waterway remain. And, although conditions were not mentioned in the LOR, it is possible or even likely that the Coast Guard would still prevent LNG transits due to insufficient safety and security of the LNG vessel — just as mentioned in the Coast Guard's initial LOR. Effectively, this sets up applicants for massively expensive failures, as would likely be the case in this instance.

Canada will not cooperate. Prime Minister Stephen Harper has stated — both in 2005 when he was campaigning, and as he has repeated since becoming Prime Minister — that Canada will use every legal means to prevent LNG transits through Head Harbour Passage into Passamaquoddy Bay. The Coast Guard is still likely to prevent LNG transits based on realities indicated in the original Waterway Assessment and LOR — including anticipated civil disobedience in the Canadian waterway. Downeast LNG has no assurance that the Coast Guard will allow transits.

Beginning on PDF page 10, under **Comment K, Downeast LNG Response** includes a statement from the US Department of State...

"... all vessels enjoy a non-suspendable right of innocent passage into and out of Passamaquoddy Bay through Head Harbor. This is guaranteed by the international law of the sea as reflected in Articles 21 and 45 of the Law of the Sea Convention."

**Save Passamaquoddy Bay Rebuttal:**

The US Department of State's claim has no basis, since the US has no rights under UNCLOS — as is clearly pointed out in the treaty. The US is not a party to the treaty, and the treaty points out that its rights attend only to members of the treaty.

NA17-4  
cont'd

NA17-4 See response to comment Comment NA4-181. The WSR makes it clear that Downeast LNG must adequately address and resolve the transboundary safety and security risks, requirements, and impacts. As discussed in Section 4.12.7.6, the Coast Guard has the authority to prohibit LNG transfer or LNG vessel movements within U.S. waters if such action is necessary to protect the waterway, port or marine environment. If this project is approved and if appropriate resources are not in place prior to LNG vessel movement along the waterway, then the Coast Guard would consider at that time what, if any, vessel traffic and/or facility control measures would be appropriate to adequately address navigational safety and maritime security considerations and whether or not to allow a tanker passage in U.S. waters.



20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

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Additionally, Coast Guard Office of Maritime & International Law Capt. Charles Michel has publicly admitted that the US has no legal standing to challenge Canada's LNG transit prohibition.

NA17-4  
cont'd

*"Without being a party to the Law of the Sea Convention, we cannot avail ourselves of the dispute-resolution provisions," [Capt. Charles Michel] said.*  
—"Harper dismisses Bush plea for gas tankers passage: U.S. official,"  
Canadian Press, 2007 Dec 12;

Since the US has no legal standing, then the US has no "non-suspendable" right of innocent passage.

On PDF page 11, under Comment L, Downeast LNG Response states...

*"SIGTTO is a private industrial society that prepares for industry members a number of 'standards' and position papers regarding the liquefied natural gas industry. SPB, in its presentation of 'SIGTTO terminal siting guidelines' has repetitively chosen to unilaterally interpret, for its own self-interest and to support its own conclusions, what SIGTTO proposes or outlines for review with its membership. Neither SPB nor Mr. Godfrey is an official spokespersons for SIGTTO."*

**Save Passamaquoddy Bay Rebuttal:**

SIGTTO has offered its assistance to FERC. (See attached PDF of the letter, **08\_SIGTTO\_Letter2FERC\_2004May26.pdf.**)

NA17-5

Downeast LNG makes a bald, unsupported claim. Godfrey has not represented himself as a spokesperson for SIGTTO, but has informed himself of the organization's terminal siting best safe practices — something that Mr. Girdis failed to do before selecting his proposed project site.

Here is a list of SIGTTO best practices indicating that Downeast LNG's terminal site is inappropriate:

1. Locate LNG ports where LNG vapors from a spill or release cannot affect civilians;
2. Locate LNG ship berths far from the ship transit fairway, to prevent:
  - 2.1. Collision or allision from other vessels;
  - 2.2. Surging and ranging along the LNG pier and jetty that may cause the berthed ship to break its moorings and/or LNG connection;
  - 2.3. Ignition of LNG vapors;
3. Locate LNG ports where they do not conflict with other waterway uses — now and into the future;
4. Long, narrow inland waterways are to be avoided, due to greater navigation risk;
5. Waterways containing navigation hazards are to be avoided as LNG ports.

NA17-5 See response to comment IND30-4.

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

NA17

Girdis was ignorant of SIGTTO best practices when he made his site selection, as he unintentionally disclosed to the Bangor Daily News when he indicated that SIGTTO "laws" do not apply to LNG terminals. Following is Mr. Girdis' statement, from the 2006 Mar 9 Bangor Daily News article, "Regulators advance review process for LNG proposal":

NA17-5  
cont'd

*"Dean Girdis, president of Downeast LNG disagreed. 'I don't know the law per se. My understanding is that SIGTTO refers to tankers and not terminals,' he said. 'We at Downeast will comply with all federal and state safety standards required for the LNG terminal and we will comply with all Coast Guard regulations relative to transit.'"*

Source: <<http://pqasb.pqarchiver.com/bangor/access/1000275641.html?FMT=ABS&FMTS=ABS:FT&type=current&date=Mar+9%2C+2006&author=DIANA+GRAETTINGER%3BOF+THE+NEWS+STAFF&pub=Bangor+Daily+News&edition=&startpage=2&desc=Regulators+advance+review+process+for+LNG+proposal>>

SIGTTO best practices are not "laws" and they specifically do apply to LNG terminals.

SIGTTO published "LNG Operations in Port Areas" in 2003, and "Site Selection and Design for LNG Ports and Jetties, Information Paper No. 14" in 2004. These publications were available to Downeast LNG when the applicant selected its site. Failing to have used SIGTTO in its initial site selection, Downeast LNG had several years of knowing that its site cannot not conform to SIGTTO best practices, and could have selected a site that does conform. If Downeast LNG had complied with SIGTTO, it would not now be facing LNG ship transit prohibitions by the Government of Canada.

SIGTTO states in its 2003 publication, "LNG Operations in Port Areas," page 23...

***"It is essential that all terminals designated for the transfer of LNG fully comply with recommended criteria. To do otherwise needlessly increases the risks of interface failure and consequential release of LNG."*** [Bold emphasis added.]

Unlike Mr. Girdis' site selection demonstrates, Godfrey and Save Passamaquoddy Bay advocate that LNG industry participants abide by their industry's own terminal siting best safe practices.

PDF page 14 — ATTACHMENT A

DOWNEAST LNG'S SUPPLEMENTAL PROJECT PURPOSE AND NEED states...

*"...Domestic shale gas cannot reach New England due to pipeline constraints and despite a doubling of renewable generation capacity, EIA and ISO-New England forecast additional gas-fired generation requirements in the future."*

## NA17 Save Passamaquoddy Bay

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

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### Save Passamaquoddy Bay Rebuttal:

Algonquin's proposed AIM pipeline clearly moves domestic Marcellus shale gas to the Boston area of New England, as illustrated in their brochure (see **Figure 4**, below), "Algonquin Incremental Market (AIM) Project: Connecting emerging natural gas supplies to premium markets in the Northeast and New England" (attached file: **09\_AGTEExpansionOpenSeason 2011.pdf**).

NA17-6



Figure 4 — Algonquin Gas Transmission indicates its pipeline will send Marcellus natural gas to the Boston area.

### PDF Page 14 — Objective

"The project will provide additional natural gas supplies to meet increasing gas demand in the New England region (i.e., Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont)."

### PDF Page 15 — Objective (continued)

"Fourth, the project will provide an additional 6.6 Bcf of needed firm gas storage capacity in a region that has no natural storage options available. The addition of new storage capacity will greatly improved [sic] the energy security of New England during periods of winter peak demand when pipelines from the western and southern U.S. gas supply basins are at capacity. Imported LNG has met over 25% of New England's average daily natural gas demand since November 2010 and as much as 40% during winter peak periods. Only the development of additional LNG storage tanks in the region will meet the need for increased storage capacity."

### Save Passamaquoddy Bay Rebuttal:

Everett LNG's imports are steadily falling. Neptune LNG and Northeast Gateway have been idle for the last year. Vast domestic natural gas supplies are available in

NA17-7

NA17-6 See response to comment NA14-1.

NA17-7 See response to comment NA13-2. Section 3.0 of the final EIS addresses potential alternatives to the proposed project, including the expansion of existing pipeline systems that could move natural gas from the Marcellus shale area into New England.



20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

NA17

the nearby Marcellus. New pipelines and pipeline expansions — not new LNG import infrastructure — are the most practical solution to meeting any growing natural gas demand.

NA17-7  
cont'd

The nearby Marcellus is essentially an enormous storage facility. In addition, Canaport LNG has LNG storage capacity, and has room to construct two additional storage tanks without the need to construct yet another import terminal. Canaport tank expansion would reduce environmental impact, compared to Downeast LNG's proposal.

Downeast LNG's statement is fundamentally misleading. Additional LNG storage, if actually needed, could be done at peak-shaving or storage facilities, rather than another import terminal. The two offshore import terminals in Massachusetts Bay use LNG ships as storage.

Exceleerate Energy, developer of the proprietary technology used by Northeast Gateway, says of their proprietary deepwater terminals: "They ... provide a highly flexible LNG receiving terminal, enabling us to respond rapidly to changing demand conditions downstream." <<http://www.exceleerateenergy.com/offshore-regasification-gateway>>

**PDF Page 15 — Gas Supply Need**

*"Although there are several major pipeline upgrades planned in the Northeast/Mid-Atlantic, there are no upgrades underway to increase gas deliverability into New England. El Paso recently completed a small upgrade with its NSD Project to alleviate a supply bottleneck in western Massachusetts. Algonquin's (Spectra) proposed AIM project could increase capacity in southern New England but it is still in the early stages of evaluation: the open season phase is not yet complete and it's not clear if the project will proceed to permitting. Even with an increase in shale gas production in Marcellus, for example, the result would be the displacement of Gulf of Mexico gas deliveries to New England with shale gas, and not an increase in net supply availability to the region.*

*"The only regional supply option, with the exception of LNG, is offshore Nova Scotia gas, which has already experienced significant production declines....*

*"...*

*"Several studies have discussed the impact of insufficient natural gas supply diversification for New England. The EIA (2012) and the AEO (2010 and 2011) discussed the importance of imported LNG for New England. The New England Governors' Conference Report (2005) first highlighted this issue when it assessed natural gas demand and supply options for the region and concluded that LNG will play a vital role in ensuring a reliable supply source of gas, particularly during winter months."*

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG again contradicts itself in claiming there are no proposed pipeline expansions in New England. Even in its "Gas Supply Need" statements, Downeast

NA17-8

NA17-8 See response to comment NA17-2.

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

NA17

LNG contradicts itself. It claims there are no planned upgrades to increase gas deliverability to New England, but then indicates El Paso's recent upgrade solved a supply bottleneck in Massachusetts, and again admits that Algonquin's AIM project could increase supply to New England.

NA17-8  
cont'd

Downeast LNG dismisses out of hand the nearby domestic Marcellus shale supply, baldly pretending it cannot supply New England.

Downeast LNG's reference to the 2005 New England Governors Conference indicates the applicant's reliance on stale information to justify the project. The domestic natural gas supply boom was not yet developed in 2005. Conditions now are entirely different than in 2005.

**PDF Page 18 — Role of LNG in the U.S.**

*"For the first half of 2011, eight U.S. and Canadian LNG regasification terminals saw imports of LNG. Of these, four terminals had long-term contracts though all eight imported short-term and spot cargoes. Despite low gas prices, imports continued, particularly into the New England region.*

*"...The U.S. will continue to be dependent upon LNG imports, notably Puerto Rico and New England.*

*"...Although gas prices have fallen substantially since 2007, cargoes delivered to the U.S. have not declined as steeply as many have predicted (Figure 1-10)....*

*"As the EIA recently noted in its January 18, 2012 Today in Energy Note4 (Figure 1-11):*

*"Liquefied natural gas (LNG) has met over 25% of New England's average daily natural gas demand since November 2010. Four LNG regasification facilities can provide LNG to New England—Canaport, Everett, Neptune, and Northeast Gateway. Most of New England's LNG deliveries come from the Canaport terminal in New Brunswick, Canada and the Everett terminal in Boston...."*

*"...LNG must still be imported into the United States, specifically for the pipeline constrained New England market and due to the growing gap between gas supply and demand. An increased availability of multiple LNG supply options would allow for competitive gas supply pricing relative to domestic gas supply options.*

*"...LNG will play a critical role in New England as a peaking and baseload source of gas for the near term and into the future. LNG can be a competitive gas supply source for the New England market due to its potential lower production and delivered cost relative to more expensive unconventional sources and given pipeline capacity limitations from western and southern gas supply basins. LNG import terminals such as Downeast LNG are essential to meet the future market demand growth."*

**Save Passamaquoddy Bay Rebuttal:**

Everett LNG imports have declined steadily from 2007 to the present (see [Figure 2](#)). Northeast Gateway and Neptune LNG had no imports whatsoever in 2011.

If New England continues to rely on LNG imports, that reliance does not require expanding an already grossly-overbuilt New England-supplying LNG import infrastructure.

LNG imports have fallen significantly, and are projected to fall off a cliff beginning in 2021 (refer back to [Figure 3](#), "Energy Outlook 2011"). US LNG imports have fallen to a 10-year low, according to recent EIA data, as shown in [Figure 5](#), below.

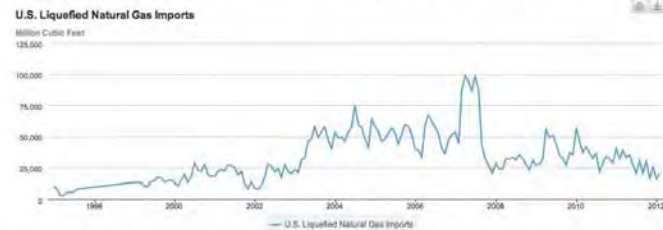


Figure 5

Neptune and Northeast Gateway had zero imports in 2011. Everett's imports have declined steadily each year from 2007 to present.

Downeast LNG only speculates about a "growing gap" between natural gas supply and demand. Copious natural gas supply exists in the nearby Marcellus.

Downeast LNG speculates that its proposed imported LNG would have a "potential" lower production and delivered cost, claiming unconventional (shale) natural gas production and delivery is more expensive. Some shale gas production costs are negligible due to the natural gas being a byproduct of drilling for oil or for natural gas containing heavy hydrocarbons that bring more profit than the natural gas. That is one reason why the natural gas glut continues despite fewer rigs drilling for dry natural gas.

Downeast LNG then claims its proposed project is "essential" to meet market demand growth. Downeast LNG bases its argument on the bald claim that pipeline infrastructure expansion is too onerous to be practical. History demonstrates otherwise, as [previously documented](#) in this letter.

NA17-9

NA17-9 Project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.



NA17

**PDF Page 21 — Need for Downeast LNG Terminal**

*"Recent gas pipeline investments noted earlier will relieve some of the supply and bottleneck issues but will not solve the peak demand issues and incremental gas demand growth due to the lack of spare pipeline capacity from southern supply sources into New England. Even though the Canaport LNG project, located in Canada, will be able to deliver gas to the New England region an additional LNG terminal is needed. As well, despite ongoing investment in renewable generation capacity, limited power transmission capacity restricts the ability of renewable energy to meet power demand growth. Gas-fired generation will play an increasingly important role in the region."*

**Save Passamaquoddy Bay Rebuttal:**

DeLNG contradicts itself in the above statement, since it has indicated pipeline expansion permitting is too onerous to be of use. New pipelines and expansions delivering supply from nearby abundant domestic sources are the most reasonable solution to peak demand problems.

NA17-10

NA17-10 See response to comment NA17-2.

**PDF Page 22 — Need for Downeast LNG Terminal (continued)**

*"Canaport faces several limitations in meeting New England gas requirements. First, the net quantity of regasified LNG available is insufficient to meet future supply reductions of offshore Sable Island production and gas demand growth. There is competing demand in New Brunswick for the regasified LNG, and this demand is growing. Most important, given historical utilization rates for LNG facilities of about 50%, the likely available supply for Canaport is 600 mmcf/d or 50% of its baseload capacity of 1.2 Bcf/d."*

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG ignores the Marcellus, and uses historical LNG terminal capacity utilization as if it were a real limitation. It is not. LNG terminals are able to use 100% of their capacity if conditions warrant it.

NA17-11

NA17-11 Comment noted. Section 3.3.2.1 of our alternatives analysis addresses Canaport as an alternative. See also response to comment NA13-2.

*"The two offshore LNG projects, Northeast Gateway and Neptune, will be able to deliver LNG into the market however there are some significant limitations. First, the projects are designed to be peaking facilities, rather than a baseload supply source, with the ability to take advantage of gas market price differentials between Northeast and European markets. Recent history supports this argument as only two cargoes were delivered to the Northeast Gateway project in over a year of operation. Second, major gas buyers in New England, such as the Local Distribution Companies, want firm gas supply that can be backstopped by pipeline capacity or regional land based LNG storage – offshore LNG ships cannot provide a secure source of gas in the winter."*

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG dismisses as non-useful such offshore LNG facilities as Suez LNG's Neptune LNG terminal in Massachusetts Bay — an offshore terminal owned by the same company that owns Distrigas of Massachusetts, owner of the Everett LNG

NA17-12

NA17-12 Section 3.3.2 of the final EIS presents our evaluation of other New England LNG import terminals, including Neptune, to serve as potential alternatives to the proposed project.



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NA17

onshore terminal next to Boston. Downeast LNG contradicts the Neptune LNG terminal's stated purpose, as detailed in the company's news release:

NA17-12  
cont'd

*"Neptune has critical importance for citizens and businesses in Massachusetts. It will provide an average of 400 million cubic feet of natural gas per day -- enough to serve 1.5 million homes daily. **On very cold days and other periods of peak demand**, each Neptune vessel can increase its delivery rate to 700 million cubic feet of natural gas per day. Thus, by increasing supply to the region, **the project will help ensure that homes in Massachusetts and the rest of New England have heat when temperatures drop and electricity year round.**"*

*"Because of Neptune's location off the coast of Massachusetts' North Shore, local consumers also have "first claim" to the natural gas imported through Neptune, just as they do with the Everett Terminal, versus the typical "last claim" of supplies from the Gulf of Mexico or Canada. Further, **Neptune would provide critical pipeline pressure support during periods of peak demand.**" [Bold emphasis added.]*

*(Source: <<http://www.prnewswire.com/news-releases/neptune-lng-deepwater-port-application-deemed-complete-by-united-states-coast-guard-54997842.html>>)*

*"Suez's Distrigas LNG terminal in Boston has a sustainable daily throughput capacity of approximately 0.6 Bcf/d of gas. Canaport LNG (Repsol) has contracted only 0.75 Bcf/d capacity on the M&NP to deliver natural gas to New England. Concurrently, since Repsol recently contracted to market about 0.2 Bcf/d of gas from the Deep Panuke offshore Nova Scotia field, the maximum LNG that Canaport can deliver to the New England region is 0.55 Bcf/d. It is clear that there is insufficient firm LNG deliverability into the New England market to meet the projected demand growth and forecasted offshore supply reductions."*

**Save Passamaquoddy Bay Rebuttal:**

*Canaport has 1.2 Bcf/d capacity, not 0.55 Bcf/d. Additionally, Downeast LNG contradicts itself in the previous sentence, indicating Canaport has 0.75 Bcf/d capacity on the M&NE Pipeline. If need existed, Canaport LNG could contract more pipeline capacity, just as Downeast LNG is proposing to contract unused pipeline capacity.*

NA17-13

*The absence of firm LNG deliverability ignores the nearby prolific domestic natural gas supply in the Marcellus, negating the need for another surplus LNG terminal.*

*"It is important to note that, even in the case of excess gas supply, the Downeast LNG Project could act as a supply source for southern New England markets. For example, it could be advantageous for the Downeast LNG Project to supply southern New England markets as Canadian gas producers are paying very high transportation costs to bring Alberta gas to fulfill contract obligations. Given gas*

NA17-13 Section 3.3.2 of our EIS presents our evaluation of the Canaport LNG terminal to serve as a potential alternative to the proposed project.

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NA17

supply constraints in Alberta, it is more economic for producers to supply the Mid-continent region and let imported LNG supply their existing contracts."

**Save Passamaquoddy Bay Rebuttal:**

The lowest transportation costs would be from domestic supply in the nearby Marcellus.

NA17-14

NA17-14 Comment noted.

**PDF Page 22 — Potential Role of New LNG Supply in the New England Gas Market**

"In the near future, a New England based LNG facility will undoubtedly play a critical role in meeting the growing gas demand. There are limited gas supply options via southern interstate pipelines (specifically Algonquin and Tennessee pipelines) to bring needed incremental gas supply to the region. These pipelines are constrained with no major expansions currently planned. Offshore gas production from Nova Scotia continues to decline and imported Canadian LNG (via pipeline) or offshore LNG are not secure supply sources and will be insufficient to meet future market growth. In addition, there are limited gas supply options from Quebec via the Portland Natural Gas Transmission and M&NP pipelines. Thus, the M&NP is the only pipeline and gas supply option that can readily expand and supply the major gas consuming sub-markets of New England.

"...  
"In order to optimize its supply availability, an LNG terminal should be located in such a way that it can effectively meet demand requirements in all three New England sub-markets (northern New England, Metro Boston, and southern New England). The Downeast LNG Import Terminal and Pipeline Project meets these requirements fully."

**Save Passamaquoddy Bay Rebuttal:**

Downeast LNG again disregards Marcellus supply and expanding the delivery pipeline.

NA17-15

NA17-15 See response to comments NA17-2, NA17-7, and NA17-13.

Downeast LNG has not demonstrated that its proposed supply would be more secure than Canaport LNG's supply. In fact, with Canada's prohibition against LNG transits into Passamaquoddy Bay, Downeast LNG cannot obtain *any* LNG, meaning Downeast LNG's supply cannot obtain *any* level of supply security.

The Portland Natural Gas Transmission Pipeline (PNGTP) could expand if actually needed. Downeast LNG indicated on **PDF page 19** that PNGTP is operation at only 30% of capacity. If there were a need, the pipeline would operate at capacity.

There is no factual basis for Downeast LNG's claim that other pipelines cannot expand and supply New England. The pipeline construction history in the Northeast contradicts Downeast LNG's claim.

## NA17 Save Passamaquoddy Bay

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM	
	NA17
<p>If more LNG is imported at Boston, DeLNG is unneeded. If pipelines are expanded to deliver from nearby copious Marcellus natural gas supply, DeLNG is unneeded.</p> <p>As for the graphs supplied in Downeast LNG's comments:</p> <p><b>PDF Page 28 — Figure 1-5: Projected U.S. Electricity Generation (TWh per Year), 2009-2035</b></p> <p><b>Save Passamaquoddy Bay Rebuttal:</b> The graph provides no indication of New England's projected electricity generation.</p> <p><b>PDF Page 29 — Figure 1-6: Deloitte and EIA AEO (2011) Natural Gas Demand in the US Power Sector, 2010-2030</b></p> <p><b>Save Passamaquoddy Bay Rebuttal:</b> The graph provides no indication of New England power sector natural gas demand.</p> <p><b>PDF Page 30 — Figure 1-7: AEO - US Natural Gas Production and Imports, 1990 – 2035</b></p> <p><b>Save Passamaquoddy Bay Rebuttal:</b> The graph projections indicate that shale gas moots the need for incremental LNG imports.</p> <p><b>PDF Page 31 — Figure 1-8: Projected LNG Imports by Region, 2011- 2029</b></p> <p><b>Save Passamaquoddy Bay Rebuttal:</b> The graph does not break out the projected imports for Mexico, a net LNG importer.</p> <p><b>PDF Page 32 — Figure 1-9: US and Canadian Gas Supply Requirements, 2009 – 2035</b></p> <p><b>Save Passamaquoddy Bay Rebuttal:</b> LNG imports do not increase dramatically. Plus, the graph stops projecting at 2035, but the EIA projects that LNG imports will drop precipitously — around 72% — after 2021, as shown in <a href="#">Figure 3</a>.</p> <p><b>PDF Page 34 — Figure 1-11: New England liquefied natural gas deliveries and demand, November 2010 – January 2012</b></p> <p><b>Save Passamaquoddy Bay Rebuttal:</b> The graph demonstrates a decreasing regional demand.</p> <p><b>Summary</b> Downeast LNG's project justification is premised on ignoring the most practical common-sense solution to natural gas supply in New England: expanding pipeline</p>	<p>NA17-15 cont'd</p> <p>NA17-16</p> <p>NA17-17</p>
21	

NA17-16 Comment noted.

NA17-17 See response to comment NA17-2.

20120525-5040 FERC PDF (Unofficial) 5/25/2012 10:47:31 AM

NA17

infrastructure to deliver natural gas from the decades-worth of supply in the Marcellus. The applicant argues that pipeline construction is "daunting," even though history shows that numerous new pipelines and pipeline expansions have been successfully accomplished in the Northeast, New England, and Maine (see [list of New England pipelines](#) in this letter).

NA17-17  
cont'd

All other proposed US LNG import terminal projects — including in the Boston market area — have abandoned the idea due to economic impracticality; nearby domestic natural gas supply abounds.

Hess Energy, a large, experienced, and international energy company cancelled its Weaver's Cove Energy LNG import terminal project on 2011 June 13 because it no longer made economic sense. Two other Passamaquoddy Bay LNG import terminal projects have failed, Cove Point LNG in Lusby, Maryland desires to export domestically-produced LNG from the nearby Marcellus. In 2005 there were around 40 proposals to construct LNG import terminals in North America. Now, there is just one — Downeast LNG — and it would needlessly increase US reliance on overseas LNG supplies when the Northeast is awash with cheap domestic supply.

Downeast LNG's purpose and need argument is fatally flawed by the vast decades-long inexpensive domestic natural gas supply available in the nearby Marcellus Field, and by the Northeast and New England Regions' history of successful natural gas pipeline development.

Downeast LNG has made misleading and demonstrably false statements in its FERC docket filing.

Save Passamaquoddy Bay requests that FERC acknowledge this applicant's lack of truthfulness before the Commission, as well as the lack of need for the proposed project, and that the Commission deny Downeast LNG's application permits.

NA17-18

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq  
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NA17-18 The Commission will consider all factors relevant to Downeast's application, including project need, in its determination whether or not to authorize the project.



20120531-5041 FERC PDF (Unofficial) 5/31/2012 12:25:12 AM



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NA18

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on May 31

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001;  
Supplement to our 2012 May 25 filing, Accession No. 20120525-5040.**

Dear Ms. Bose,

On May 8, US Congressman Edward Markey wrote to Department of Energy Secretary Steven Chu calling for investments in expanding domestic natural gas pipeline infrastructure to deliver abundant domestic supply to New England. Congressman Markey expressed concern that the US is contemplating **exporting** significant quantities of domestically produced natural gas (see **Figure: LNG Imports and Exports** on the following page) when the public interest would be better served by making nearby domestic natural gas more available to New England. See the accompanying files:

02\_2012-05-08\_Congressman\_Markey-Boston-Globe.pdf  
03\_2012-05-08\_Markey-Sec\_Chu.pdf

It makes little sense to **export** natural gas that exists near New England when New England demand currently requires LNG to be **imported** from overseas. Pipeline investment delivering natural gas to New England would reduce expensive LNG imports from unfriendly and unstable countries. Pipeline investment would also reduce energy costs to citizens and industry in the region. Greater access in New England to domestic supply would further reduce dependence on imported natural gas from Canada.

It makes little sense to **import** more LNG into New England, as Downeast LNG is proposing to do, when there is decades-worth of nearby domestic natural gas supply available. Pipeline investment is a better long-term public-interest solution to energy access and security in New England than importing overseas LNG from countries that are unstable and/or unfriendly to US interests. Further reducing New England's dependence on imported LNG would also reduce federal, state, and local security and emergency-responder costs and concerns that accompany LNG imports. US trade balance would improve.

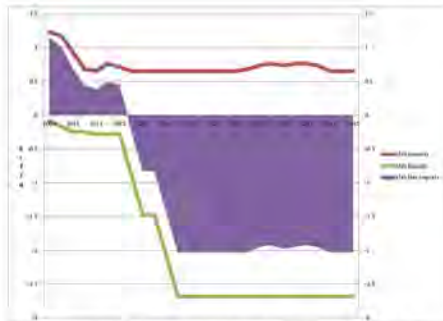
NA18-1  
NA18-2

NA18-1 The attachments are not included in this appendix of the FEIS. They are available for review on the FERC's website under docket number CP07-52 (accession number 20120531-5041).

NA18-2 Project need, and how the developing domestic natural gas supply may impact project need, will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

20120531-5041 FERC PDF (Unofficial) 5/31/2012 12:25:12 AM

NA18



Data Source: US Department of Energy Early 2012 Annual Energy Outlook  
Figure: LNG Imports and Exports: US to Become a Net LNG Exporter

Downeast LNG's import terminal proposal does not pass the "public interest" credibility test. Save Passamaquoddy Bay urges FERC to deny Downeast LNG's permits.

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Olympia Snowe  
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20120727-5149 FERC PDF (Unofficial) 7/27/2012 3:16:46 PM

NA19



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eFiled on 2012 July 26

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

On 2012 May 23 Downeast LNG filed its recalculated vapor dispersion Exclusion Zone report (Accession No. 20120523-5172). Years before recalculation, Downeast LNG had filed to the docket illustrating that its vapor dispersion and the thermal radiation Exclusion Zones extended beyond its property fence line. The applicant knew years ago that the proposed site is too small.

Using a new vapor dispersion model, as required by the US DOT and FERC, the subsequent report implies that LNG vapor from a release could go even farther outside the fence line than previously thought, in violation of regulations. Attempting to prevent LNG vapor from leaving the terminal, Downeast LNG has proposed approximately 1.76 miles of 20'-tall vapor fences within the property.

The applicant's vapor dispersion modeling report indicates in at least one 10-minute scenario that LNG vapor would pass over the long internal vapor fence, drop to the ground, and then accumulate at the fence line vapor fence alongside highway US-1.

The configuration of the proposed vapor fencing raises serious safety questions.

**Black Swan Concerns**

("Black swan" refers to an unanticipated event)

**Confined Vapor Explosion**

The two longest vapor fences are relatively near each other, in a concentric-like configuration. As reported by Downeast LNG, in at least one scenario, vapor from a release would become confined between the two fences. If ignition is present, could confined LNG vapor detonate rather than simply burn? Would the detonation erupt through the vapor fence and onto US-1 or the adjacent state scenic turnout, possibly

NA19-1

NA19-1 See response to comment NA4-197.

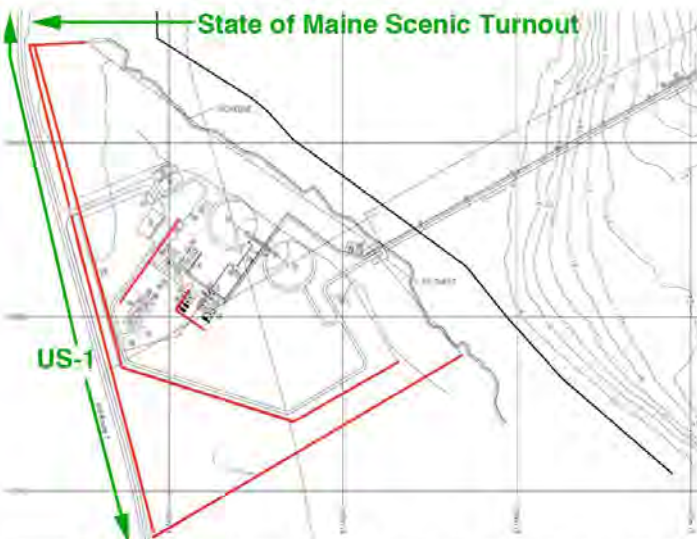


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NA19

with a school bus present on the adjacent highway; or, with students standing outside the school bus at the adjacent scenic turnout?

NA19-1 cont'd



State of Maine Scenic Turnout

US-1

Proposed terminal plot plan showing vapor fences in red, Figure 2 from Downeast LNG FERC Accession No. 20120523-5172(27299081). Green arrows and text added by Save Passamaquoddy Bay.

**Unconfined Vapor Explosion**

FERC contends that an unconfined LNG vapor cloud cannot explode — contradicting Sandia National Laboratories' 2004 report to the Department of Energy (2004 Sandia Report). The Sandia Report (page 127, second paragraph) cites 1978 U.S. Coast Guard China Lake Tests demonstrating such an event. A confined vapor cloud detonation can result in detonating an adjacent unconfined vapor cloud in at least some circumstances.

*"Experiments were also performed to test a postulated accident scenario in which the vapor formed during an LNG spill mixes with air to form a flammable mixture and then diffuses into a culvert system. The mixture in the culvert ignites and the combustion wave accelerates then transitions to a detonation that exits the culvert and detonates the remaining unconfined vapor cloud. The detonation charge used in the*

2

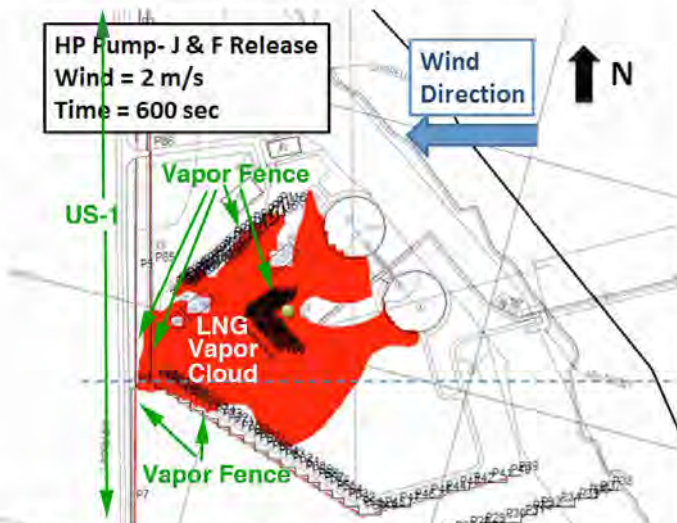
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NA19

culvert was a 13 kg explosive. Detonations in the vapor mixture occurred when propane concentrations were 6% or greater and the culvert measured 2.4 meters in diameter. From these detonations, the shock wave was felt at a town 22 km from the test site." [Bold emphasis added.]

NA19-1 cont'd

According to the referenced Department of Transportation research, a confined vapor explosion between the Downeast LNG vapor fences might erupt into the adjacent unconfined LNG vapor, resulting in an unconfined vapor cloud explosion.



HP Pump- J & F Release  
Wind = 2 m/s  
Time = 600 sec

Wind Direction

US-1

Vapor Fence

LNG Vapor Cloud

Vapor Fence

Vapor cloud passing around and over inner vapor fences, and out to outer vapor fence, Figure 49 from Downeast LNG FERC Accession No. 20120523-5172(27299081). White type, green type, and green arrows added by Save Passamaquoddy Bay.

**LNG Vapor Onto Private Property**

Could a vapor explosion between the two long vapor fences (and possibly an associated unconfined vapor explosion) compromise one or both vapor fences? If so, could subsequent vapor arriving at the damaged vapor fence then have unimpeded access to exit the terminal property, cross highway US-1, and onto private property?

3

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NA19

Downeast LNG has known for years that its proposed site is too small. Its latest vapor dispersion Exclusion Zone report indicates the problem is even worse than previously known, and presents an even greater unnecessary risk to the public.

NA19-1  
cont'd

Save Passamaquoddy Bay urges the Commission to deny Downeast LNG's permits.

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Olympia Snowe  
Sen. Susan Collins  
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20120917-5042 FERC PDF (Unofficial) 9/17/2012 11:58:26 AM

NA20



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eFiled on [[[DATE]]]

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Pre-existing Heavy-Metal Toxins, Environmental Justice**

Dear Ms. Bose,

The Downeast LNG permitting process has not yet adequately addressed known pre-existing toxic heavy metals in the St. Croix estuary bottom at the proposed Downeast LNG terminal pier site, nor has it adequately addressed Environmental Justice issues related to those toxins.

**Pre-existing Toxins in the Bottom of the Proposed Downeast LNG Pier Waterway**  
Toxins have not been adequately addressed in either the Downeast LNG Draft Environmental Impact Statement (DEIS) or in the recently-filed Revised Biological Assessment (Docket Accession No. 20120614-0037). They mention only toxins introduced as the result of spills or other pollution originating from the project, itself; they do not address known pre-existing toxic heavy metals at the bottom of the St. Croix estuary.

Heavy metal pollution of the St. Croix River was studied by the Land and Water Resource Institute, Department of Oceanography, University of Maine, and reported in November 1976, *"Heavy Metal Levels in Suspended Particles, Biota, and Sediments of the St. Croix Estuary in Maine,"* L.K. Fink, D.M. Pope, A.B. Harris, and L.L. Schick (see attached file, 02\_Heavy\_Metal\_Levels\_St\_Croix\_Estuary.pdf).

As suggested in the 1976 study, disturbing the waterway bottom during pier construction and from the project's ongoing tug and ship prop-wash could re-suspend existing toxins into the water column, impacting marine biota, and ultimately humans, through fish consumption. Neither the DEIS nor the Biological Assessment analyzes the impacts of such toxins on the food web; on protected marine, avian, or terrestrial species; or on human consumption of contaminated species (that also requires Environmental Justice considerations, discussed below).

NA20-1

NA20-1 We believe that toxins have been adequately addressed in the EIS and BA. Downeast completed site-specific testing at the location of the proposed pier to identify potential contaminated sediments, including heavy metals. Section 4.2.8 of the EIS addresses the results of this site-specific testing and the likelihood of re-suspension from the proposed construction and operation. We believe there would be no adverse impacts from re-suspension of sediments during pier construction or from project operation. The attachment to this letter is not included in this appendix of the FEIS, but is available for review on the FERC's website under docket number CP07-52 (accession number 20120917-5042).

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NA20

The Revised Biological Assessment contains a nearly identical paragraph on toxins as contained on pages 4-189 through 4-190 of the DEIS...

*To date, the overall impacts on marine mammals associated with exposure to toxins are not well understood; however, accidental spills and releases of oils, lubricants or other pollutants could harm those species that come into contact with the released product. For example, biomagnifications of environmental toxins (e.g., ingestion of phytoplankton toxins like saxitoxin) have been known to pose threats to whales such as humpback and sperm whales. To minimize the potential for accidental spills and/or releases, as well as the associated impacts on marine mammals, LNG vessels would comply with Coast Guard regulations (33 CFR § 151, 155, and 157 regarding implementation of MARPOL 73/78) and VGP requirements. Downeast would also adopt marine spill prevention and control measures to expedite containment and cleanup in the event of a spill at the LNG terminal. As such, marine mammals are not expected to be adversely affected by accidental spills.*

Neither document addresses the environmental or human-biological impacts from disturbing existing heavy metal toxins that may reside in the St. Croix River estuary bottom at or near Downeast LNG's proposed 4,000-foot jetty and pier.

#### Environmental Justice

The Memorandum of Understanding on Environmental Justice and Executive Order 12898 (MOU EJ, attached file, [03\\_ej-mou-2011-08.pdf](#)) specifically applies to the Department of Energy (DOE); NOAA as an agency within the Department of Commerce; US Fish and Wildlife as an agency within the Department of the Interior; Pipeline Hazardous Materials Safety Administration (PHMSA) as an agency within the Department of Transportation, as well as the Environmental Protection Agency (EPA). The MOU EJ requires the aforementioned federal agencies to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations." All named federal agencies are obligated to adhere to this requirement as it pertains to Downeast LNG permitting.

No apparent Environmental Justice consideration has been made regarding Downeast LNG's impacts on Passamaquoddy subsistence fishers (or on any humans) consuming species contaminated with these heavy metal toxins. The EPA requires that "no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies." Allowing the Downeast LNG project to cause pre-existing-toxin contamination of traditional and subsistence Passamaquoddy food sources would violate that Environmental Justice requirement.

NA20-2

NA20-2 As stated in section 4.2.8 of the EIS, we believe there would be no adverse impacts from re-suspension of sediments during pier construction and operation. We do not believe the project would result in contamination of fish from heavy metals. Environmental justice is also addressed in section 4.8.6 of the EIS.

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NA20

**Conclusion**

Save Passamaquoddy Bay requests that all appropriate federal agencies involved in Downeast LNG permitting thoroughly investigate and assess the impacts that disturbing probable toxins residing on the bottom of the St. Croix estuary at and around the proposed Downeast LNG terminal site would have on potentially impacted species, including humans; that such investigations be made public; and, that each of those agencies report on how they intend to comply with their Environmental Justice obligations.

Very truly,

Robert Godfrey  
Researcher & Webmaster

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20120917-5057 FERC FOR (Unofficial) 9/17/2012 12:44:49 PM

NA21



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eFiled on 2012 September 17

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Vapor Fences**

Dear Ms. Bose,

On 2012 May 23 Downeast LNG filed its vapor dispersion Exclusion Zone modeling results (Accession Nos. 20120523-5172 and 20120523-5173), including a plan to install approximately 1.76 miles of 20-foot-tall vapor fences in four sections. Twenty-foot-tall vapor fence would be built along the entire land-side property line (with an opening at the proposed terminal entrance), with no vapor fence along the shoreline. Over one-half-mile of that outer vapor fence would run along the property line parallel and adjacent to highway US-1. The northwest corner of the vapor fence would be in close proximity to two State of Maine scenic turnouts just to the south of Mill Cove.

Save Passamaquoddy Bay has created a panoramic photo-simulation of the vapor fence as seen across US-1 from the scenic turnout on the east side of US-1, and just north of the scenic turnout on the west side of US-1. The photo-simulation provides an approximate view, within the limits of Save Passamaquoddy Bay's knowledge and capability, of what the vapor fence would look like to the public on US-1 and surrounding properties, using information taken from Downeast LNG's filing (see attached photo-simulation, [02\\_deing\\_vapor\\_fence\\_photosimulation.jpg](#)).

On 2012 September 11, nearly four months after Downeast LNG filed its vapor dispersion modeling report, FERC issued a request to Downeast LNG for the applicant's vapor dispersion modeling data inputs, assumptions, and results (Accession No. 20120911-3001).

Multiple concerns arise from Downeast LNG's 1.76-mile-long four-vapor-fences proposal, and from Downeast LNG failing to initially provide the data that FERC has had to request in its latest filing.

NA21

1. The nearly-parallel two outer vapor fences could establish vapor confinement, establishing conditions for a confined vapor explosion. That could result in knock-on consequences to terminal infrastructure and to further hazardous vapor dispersion.
  - a. Has research been done on confined-vapor explosions due to vapor fence confinement? If not, would FERC permit use of vapor fence configurations that might result in such events?
  - b. The proposed Corpus Christi LNG export terminal submitted to FERC (Docket No. PF12-3-000, Accession No. 20120807-5173) its vapor dispersion analysis that included explosion ("overpressure") hazard zones. In that instance, the explosive vapor would be from refrigerants (ethylene or propane). Why is confined vapor explosion hazard calculation not included in the Downeast LNG Exclusion Zone analysis?
  - c. A confined vapor explosion between the two proposed outer vapor fences might impact public safety along adjacent highway US-1 and at the two State of Maine scenic turnouts that would also be adjacent to the proposed outer vapor fence.
2. No vapor fences are planned along the terminal shoreline. A "black swan event" could occur, such as wind blowing LNG vapor from a release onto the beach below the proposed terminal.
  - a. Would the entire shoreline adjacent to the proposed terminal and adjacent to the state scenic turnout property be off limits to the public?
  - b. What distance offshore from the terminal shoreside boundary, out in the water, would be off limits to the boating public?
3. The proposed 20-foot-tall vapor fences — especially the proposed vapor fences along highway US-1 and adjacent to the two state scenic turnouts — would have significant visual environmental impact.
4. Downeast LNG apparently did not provide its vapor dispersion modeling inputs, assumptions, and results when submitting its 2012 May 23 modeling report to FERC (Accession Nos. 20120523-5172, 20120523-5173, and 20120612-0406). FERC has made a specific request on 2012 September 11 (Accession No. 20120911-3001) for that information. Downeast LNG has a history of delay.
  - a. Downeast LNG previously went completely through State of Maine permitting, including a quasi-judicial hearing in 2007, and then withdrew from the state permitting process entirely. The process needlessly consumed considerable public and NGO resources. Downeast LNG has not reentered state permitting, and has had no permit applications pending at the state level in the five years subsequent to the state hearing from which Downeast LNG withdrew.
  - b. Downeast LNG has dragged its feet for years during this application process, including for a year prior to the permitting hiatus required for new vapor dispersion model development.
  - c. Downeast LNG's latest failure to provide input, assumptions, and results to FERC for its vapor dispersion modeling appears to be Downeast LNG's latest stalling tactic. The applicant entered pre-filing in January of 2006, and entered formal filing in January of 2007. The applicant has been in the FERC process for over six-and-a-half years. The applicant apparently has not satisfied FERC

NA21-1

NA21-2

NA21-3

NA21-4

NA21-1 As discussed in sections 4.12.2 and 4.12.5 of the EIS, the propensity of a vapor cloud to detonate or produce damaging overpressures is influenced by the reactivity of the material, the level of confinement and congestion surrounding and within the vapor cloud, and the flame travel distance. Methane vapors are classified as low reactivity compared to propane (medium reactivity) and ethylene (high reactivity). Moreover, Downeast proposes to receive LNG compositions that are not in the range shown to exhibit overpressures and flame speeds associated with high order explosions or detonations from ignition of an unconfined vapor cloud. Also see response to comment NA4-197.

NA21-2 The vapor dispersion simulations included the vapor fence configuration as proposed and evaluated multiple wind directions including those toward the shoreline. Emergency response and evacuation planning are specifically discussed in section 4.12.6 of the EIS and would need to be reviewed and completed prior to site preparation, as required by the Environmental Policy Act of 2005. See response to comment NA4-170 and NA4-224. Safety and security issues are discussed in detail in section 4.12 of the Downeast EIS. Also see response to comment S-NA7-14.

NA21-3 Section 4.7.4.2 of the final EIS has been revised to address the visual impact of the proposed vapor fence along US Route 1.

NA21-4 Delays in providing responses to Commission questions delays the overall review timeline, but may not necessitate dismissal of an application if known progress is being made in providing responses.

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NA21

information requests that were due in 2009 July. And yet, Downeast LNG continues to drag out the process.

**Conclusions**

Save Passamaquoddy Bay requests that FERC consider confined vapor explosions as a result of vapor fence confinement in this, and all, LNG facility applications. Due to absence of public safety research regarding vapor fence configurations that could result in confined vapor explosions, Save Passamaquoddy Bay requests that FERC disallow the use of vapor fences in the Downeast LNG application.

NA21-5

Downeast LNG has been in the FERC pre-application and application process for well over six years, and continues to delay, resulting in undue time, effort, and expense to all other parties. Save Passamaquoddy Bay requests that FERC establish and enforce firm deadlines in these proceedings.

Very truly,

Robert Godfrey  
Researcher & Webmaster

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NA21-5 See response to comments NA21-1 and NA4-197.



20120928-5250 FERC PDF (Unofficial) 9/28/2012 3:46:32 PM

NA22



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eFiled on 2012 September 28

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Toxic mercury in St. Croix Estuary, and Environmental Justice**

Dear Ms. Bose,

This comment is to express concerns about toxic mercury in the bottom of the Saint Croix Estuary in Passamaquoddy Bay around the area of Mill Cove, Robbinston, Maine, where Downeast LNG proposes to construct a pier of approximately 4,000-foot length in the marine estuary.

**Toxic Mercury in the Saint Croix Estuary**  
To-date, FERC has not addressed mercury toxins in the Mill Cove-area waterway bottom that would be disturbed by the proposed Downeast LNG project. Approximately 4,000 feet of proposed pier and jetty construction would likely cause toxic mercury to re-enter the water column and contaminate fish species consumed by Native American/ First Nations fishers and by the general population in the United States and Canada.

A study by scientists from Simon Fraser University, the **United States Environmental Protection Agency (EPA)**, University of Maryland Center for Environmental Science, University of Toronto, at Mississauga, and the Geological Survey of Canada, was done on toxic mercury levels in the area of interest. The study reported on the biohazard implications of disturbing those deposits in the waterway floor.

The study is entitled "*Speciation and bioavailability of mercury in well-mixed estuarine sediments*," by Sunderland, Gobasa, Heyes, Branfireud, Bayerd, Cranstone, and Parsonse; published in Marine Chemistry in 2004 (see attached PDF file, **02\_Speciation\_and\_Bioavailability\_of\_Mercury.pdf**).

**It is especially disturbing to learn that the EPA participated in this fairly recent study, but no mention of it was made in the Downeast LNG Draft Environmental Impact Statement (DEIS).**

NA22-1

NA22-1 As discussed in section 4.2.8 of the EIS, Downeast has conducted site-specific testing of sediments in the area that would be disturbed by the Project and our analysis relies on this project-specific testing and we have not cited the general EPA study. See also response to comment NA20-1 and NA20-2. The attachment to this letter is not included in this appendix of the FEIS, but is available for review on the FERC's website under docket number CP07-52 (accession number 20120928-5250).



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NA22

**Environmental Justice Requirements**

The EPA and other federal agencies participating in these proceedings have Environmental Justice obligations under President Clinton's Executive Order 12898, and under a 2011 Memorandum of Understanding. Those obligations require preventing minority populations such as Native Americans/First Nations from adverse health and environmental impacts resulting from permitting the proposed Downeast LNG project.

NA22-1  
cont'd

Contaminating subsistence fisheries consumed by area Native Americans/First Nations and economically disadvantaged citizens would violate those Environmental Justice requirements.

Since toxic contamination would likely occur in subsistence fisheries, area conventional fisheries, as well as in the marine food chain that supports endangered marine mammals, Save Passamaquoddy Bay believes a clear method of preventing that toxic contamination must be demonstrated by the applicant in order to comply with Environmental Justice requirements as well as good food safety practices.

Lacking a credible plan to prevent toxic contamination in violation of Environmental Justice requirements, Save Passamaquoddy Bay requests that FERC dismiss Downeast LNG's applications, or at the very least deny Downeast LNG's applications.

Very truly

Robert Godfrey  
Researcher & Webmaster

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20121022-5019 FERC PDF (Unofficial) 10/19/2012 10:05:52 PM

NA23



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eFiled on 2012 October 19

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Inappropriate Boilerplate Submission to FERC**

Dear Ms. Bose,

On 2012 October 12 Downeast LNG filed responses to FERC's September 11 & 13 Information Requests (Accession Nos. 20120911-3001 and 20120913-3024). Included in those requests were inquiries into the proposed 20-foot-tall vapor fence specifications, and into how Downeast LNG would maintain those vapor fences.

In Accession No. 20121012-5103(27695846), in the very first paragraph, under **1.0 Purpose/Applicability**, Downeast LNG claims it would install its vapor fence to ensure that natural gas concentrations of a certain level are contained within the EcoEléctrica facility.

NA23-1

Downeast LNG has obviously and carelessly pasted boilerplate text from a completely unrelated LNG project into its response to FERC. The EcoEléctrica LNG terminal near Peñuelas, Puerto Rico, is very different from the proposed Downeast LNG terminal in Robbinston, Maine. The settings and safety issues are different. It is an offense to FERC, to the LNG industry, and to public safety that Downeast LNG has confused its own application with the conditions at the Puerto Rico EcoEléctrica LNG terminal.

Save Passamaquoddy Bay suggests that Downeast LNG has demonstrated a lack of professional competence in its application, and that the applications be denied.

NA23-1 We do not believe that Downeast's application should be denied based on the referenced inconsistency.

20121022-5018 FERC PDF (Unofficial) 10/19/2012 10:05:53 PM

NA23

Respectfully,

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20121026-5104 FERC PDF (Unofficial) 10/26/2012 1:45:08 PM

NA24



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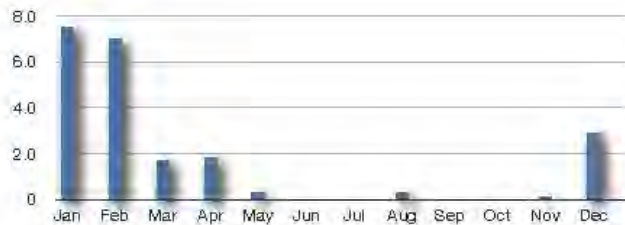
eFiled on 2012 October 26

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Purpose and Need**

Dear Ms. Bose,

Downeast LNG argues that its proposed project is needed due to pipeline constraints during periods of high natural gas consumption on cold winter days. The applicant argues that its two proposed LNG storage tanks would relieve the demand during those periods. Downeast LNG has argued that the two deepwater LNG import terminals in Massachusetts Bay cannot obtain LNG cargoes during those periods of high demand in winter. Downeast LNG also argues that the only practical solution to supply New England with incremental natural gas is its proposed project.

Downeast LNG either ignores or is unaware of deepwater LNG port cargo receipts during periods of high winter demand. Those imports contradict Downeast LNG's claims (see attached file, **02\_Deepwater\_LNG\_Combined.pdf**).



Combined 2009-2012 LNG imports for Northeast Gateway and Neptune LNG Deepwater Ports in Massachusetts Bay. Raw data source: "Natural Gas Imports and Exports - Quarterly Reports," U.S. Department of Energy, <http://www.fedoe.gov/programs/gasregulation/publications/>

NA24-1

NA24-1 Project need will be considered by the Commission in its determination whether or not to authorize the project. The attachment is not included in this appendix of the FEIS but is available for review on the FERC's website under docket number CP07-52 (accession number 20121026-5104).

<p>20121026-5104 FERC PDF (Unofficial) 10/26/2012 1:45:08 PM</p>	<p>NA24</p>
<p>The dearth of winter imports at Northeast Gateway and Neptune LNG since their commissioning are indicators of their year-round problem — the overwhelming nearby domestic natural gas availability that has come about since Downeast LNG filed its project applications — rather than an inability of those two offshore terminals to find LNG cargoes to import. Imports at Northeast Gateway and Neptune LNG make this obvious.</p> <p>Downeast LNG's claim that deepwater LNG ports cannot find LNG to import during winter high demand is not credible.</p>	<p>NA24-1 cont'd</p>
<p>Downeast LNG ignores potential storage capacity elsewhere in the region. Canaport LNG has room for five LNG storage tanks — two more LNG storage tanks than its current three. Canaport LNG's advantages over proposed Downeast LNG terminal are multiple:</p> <ol style="list-style-type: none"> <li>1) Two additional LNG storage tanks at Canaport LNG would supply the storage requirements that Downeast LNG claims are needed;</li> <li>2) Canaport LNG initially determined that two LNG storage tanks were the optimum number needed to run the facility at full capacity. It later determined that a third tank was needed (see attached file, <b>03_CanaportConnections_v7_tanks.pdf</b>), and it added the third tank; however, due to the reversal in the North American natural gas supply and market, Canaport is operating at only a fraction of its capacity;</li> <li>3) Canaport already has room within its terminal for two additional LNG storage tanks, for a total of five tanks (see attached file, <b>04_Canaport_5_tanks.pdf</b>);</li> <li>4) Canaport LNG has been running at only around one-third of capacity; meaning, there already is excess storage and output capacity serving New England;</li> <li>5) Everett LNG's imports declined 9% in 2011, indicating a lack of need for additional import capacity (see attached file, <b>05_eia_import_export2012.pdf</b>);</li> <li>6) Adding two storage tanks at Canaport LNG would eliminate any claimed need to construct the entire proposed Downeast LNG terminal and natural gas pipeline;</li> <li>7) Adding tanks at Canaport LNG would eliminate virtually all environmental impacts in the US that would result from Downeast LNG's proposed terminal and send-out pipeline;</li> <li>8) Adding tanks at Canaport would moot the problematic safety, security, and emergency response requirements that Downeast LNG would create.</li> </ol>	<p>NA24-2</p>
<p>New England Power Generators Association president Dan Dolan recently indicated to the Bangor Daily News that gas-fired power plants in New England no longer need to obtain natural gas from overseas sources (LNG) or by pipeline from the Gulf of Mexico; there is a huge, several-decades-long supply of natural gas coming from Pennsylvania and Ohio.<sup>1</sup></p> <p><small><sup>1</sup> "Fracking for gas to thank for Maine's growing electricity market," Bangor Daily News, 2012 October 22; &lt;<a href="http://bangordailynews.com/2012/10/22/business/fracking-for-gas-to-thank-for-maines-blossoming-competitive-electricity-market/">http://bangordailynews.com/2012/10/22/business/fracking-for-gas-to-thank-for-maines-blossoming-competitive-electricity-market/</a>&gt;</small></p>	<p>NA24-3</p>

NA24-2 The use or expansion of the existing Canaport or Everett LNG facilities as potential alternatives to the Downeast LNG project is evaluated in section 3.3.2.1 of the EIS. The attachments are not included in this appendix of the FEIS but are available for review on the FERC's website under docket number CP07-52 (accession number 20121026-5104).

NA24-3 Project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.



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NA24

Pieridae Energy Canada has just announced an LNG **export** terminal project at Goldboro, Nova Scotia.<sup>2</sup> The liquefaction and export project hopes to obtain one-third of its gas from the Marcellus Shale Field in the US. **The plan calls for reversing the flow of the Maritimes and Northeast Pipeline (M&NE Pipeline)**, to deliver US and Canadian natural gas to the export terminal in Nova Scotia. That is the same pipeline Downeast LNG would require to ship its natural gas south. If US natural gas from the relatively-nearby Marcellus is going north via the M&NE Pipeline to Goldboro, Nova Scotia, it is reasonable to conclude that Downeast LNG could not simultaneously ship natural gas south — and that there is no need to do so.

NA24-3  
cont'd

If there were an actual market need for two additional LNG storage tanks, Canaport would have already built them, or would be planning to build them now. Instead, Maritimes natural gas exploration and development company Corridor Resources is advocating that so much natural gas is available that Canaport LNG should be converted to **exporting**.<sup>3</sup> And, due to prolific natural gas availability in eastern Canada and the US, the Goldboro LNG **export** project in eastern Nova Scotia has already been announced by Pieridae Energy.

NA24-4

Downeast LNG's proposed terminal and pipeline have no credible purpose or need.

Since Downeast LNG cannot demonstrate credible purpose or need, Save Passamaquoddy Bay requests that FERC dismiss or deny Downeast LNG's applications.

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Olympia Snowe  
Sen. Susan Collins  
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Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
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<sup>2</sup> "LNG terminal proposed for eastern Nova Scotia," The Globe and Mail, 2012 October 24, <<http://www.theglobeandmail.com/report-on-business/industry-news/energy-and-resources/lng-plant-proposed-for-eastern-nova-scotia/article4634129/>>  
"LNG plant set for Goldboro," The Chronicle Herald, 2012 October 23, <<http://thechronicleherald.ca/business/153127-lng-plant-set-for-goldboro>>

<sup>3</sup> "New role muled for N.B. LNG plant," The Chronicle Herald, 2012 October 4, <<http://thechronicleherald.ca/business/143780-new-role-muled-for-nb-lng-plant>>

NA24-4 See response to comment NA24-3.

20121108-5078 FERC PDF (Unofficial) 11/8/2012 1:17:47 PM

NA25



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eFiled on 2012 Nov 8

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

The Energy Information Administration (EIA) November 2012 Short-Term Energy Outlook (see attached file, [02\\_steo\\_full\\_2012nov.pdf](#)) states on pages 6-7 ...

*"Liquefied natural gas (LNG) imports are expected to fall by about one-half in 2012 from the year before. EIA expects that an average of slightly less than 0.5 Bcf/d will arrive in the United States (mainly at the Elba Island terminal in Georgia and the Everett terminal in New England) both in 2012 and 2013, either to fulfill long-term contract obligations or to take advantage of temporarily high local prices due to cold snaps and disruptions..."*

The projected 2012 total import volume for the entire United States is under 0.5 Bcf/d — dropping 50% from 2011. That is less than the entire design capacity of just the proposed Downeast LNG project, and is half the maximum throughput capacity of just Everett LNG. There is an enormous surplus of US LNG import capacity facing a rapidly declining need for imported LNG.

The EIA projection provides further evidence that Downeast LNG's proposed project lacks credible purpose and need. Save Passamaquoddy Bay asks FERC to either dismiss or deny Downeast LNG's permits.

Very truly,

Robert Godfrey  
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NA25-1

NA25-1 Project need is addressed in section 1.1 of the EIS and will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project. The attachment is not included in this appendix of the FEIS but is available for review on the FERC's website under docket number CP07-52 (accession number 20121108-5078).

20121126-5200 FERC PDF (Unofficial) 11/26/2012 3:27:15 PM

NA26



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eFiled on 2012 Nov 26

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
30-foot-tall Vapor Fence**

Dear Ms. Bose,

Downeast LNG has revised the specifications of its proposed vapor fences in some of its vapor dispersion modeling, Accession No. 20121113-5487(27754519). It indicates in two of the calculations using 30-foot-tall vapor fencing along the entire land-side property line. Within that outer vapor fence would be 25-foot-tall vapor fencing in a somewhat concentric configuration to the outer vapor fence. The remaining two inner vapor fences would remain at 20-foot-tall.

Downeast LNG provided no photo-simulation of the proposed vapor fences in its Draft Resource Report 8 - Land Use, Recreation and Esthetics, Docket No. PF06-13, Accession No. 20061013-0137(16146431), and still has not done so.

Since Downeast LNG has provided no photo-simulations of the proposed vapor fences, Save Passamaquoddy Bay provides herein its own photo-simulation of the proposed 30-foot-tall vapor fence, within the limitations of capability and available information. This simulation is 50% (10-feet) taller than the 20-foot-tall vapor fence simulation Save Passamaquoddy Bay previously submitted to the docket.



## NA26 Save Passamaquoddy Bay

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NA26

As is obvious here and in Downeast LNG's 2012 May 23 docket filing, Accession No. 20120523-5172(27299081), the proposed 30-foot-tall outer vapor fence would be adjacent to a highway US-1 State of Maine scenic turnout at Mill Cove, and would run more than 1/2-mile along that highway. It would present a visual blight to the approximately 1,820 passing vehicles and their occupants each day at this location<sup>1</sup>, to visitors of the scenic turnout, and to the community.

NA26-1

The location Downeast LNG selected for its proposed terminal is a unique scenic area inappropriate for such overwhelming structures. Save Passamaquoddy Bay requests that FERC deny the applicant's permits.

Very truly,

Robert Godfrey  
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<sup>1</sup> See accompanying file (02\_MEDOT\_Traffic\_Count\_Report\_WashingtonCounty\_2011\_p18.pdf) containing Robbinston, Station 38805 - US 1 south of Ridge Road, from Maine Department of Transportation 2011 Traffic Count Report for Washington County. For the complete document, see [http://www.maine.gov/mdot/traffic/documents/pdf/trafficcounts/2011/CourtReport\\_Washington\\_2011.pdf](http://www.maine.gov/mdot/traffic/documents/pdf/trafficcounts/2011/CourtReport_Washington_2011.pdf)

NA26-1 Section 4.7.4.2 of the final EIS has been revised to address the visual impact of the proposed vapor fence along US Route 1.



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NA27



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eFiled on 2012 Nov 27

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Public Right of Recreational Access to Intertidal Zone**

Dear Ms. Bose,

Downeast LNG has applied to locate on property along the south side of Mill Cove and along Passamaquoddy Bay south of Mill Cove. They plan to construct a 4,000-foot-long jetty from that property, across the mouth of Mill Cove, to a pier in Passamaquoddy Bay. The applicant's vapor dispersion modeling indicates in some scenarios that LNG vapor would spill over the cliff and down onto the intertidal zone in Mill Cove and the intertidal zone to the south, which would present a hazard to the public in the intertidal zone.

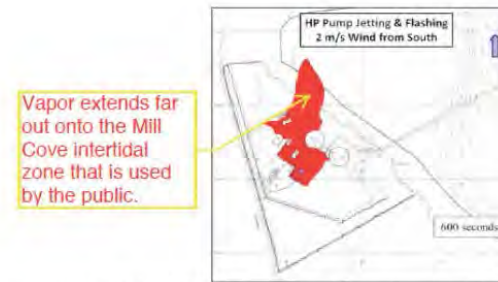
Following are figures from Downeast LNG's 2012 October and November filings to the docket showing the results of their vapor dispersion modeling. Nine of the results indicate LNG vapor from a release would drop over the shoreside cliff and down to the intertidal zone used by the public.



Accession No. 20121012-5103(27695842), Fig. 15-2  
Downeast LNG vapor dispersion graphic. (Yellow and green arrows and text added by Save Passamaquoddy Bay.)

20121127-5014 FERC PDF (Unofficial) 11/27/2012 2:06:57 AM

NA27



Accession No. 20121113-5487, Fig. 4 (upper left) Downeast LNG vapor dispersion graphic. (Yellow box and arrows, and red text added by Save Passamaquoddy Bay.)



Accession No. 20121113-5487 Fig 7. Downeast LNG-vapor dispersion graphic. (Yellow boxes and arrows, and red text added by Save Passamaquoddy Bay.)



20121127-5014 FERC PDF (Unofficial) 11/27/2012 2:06:57 AM

NA27



Accession No. 20121113-5487 Fig 8. Downeast LNG vapor dispersion graphic. (Yellow boxes and arrows, and red text added by Save Passamaquoddy Bay.)

That shoreline consists of cliffs of Perry conglomerate, a new, soft, reddish rock. Tide and wave action have created interesting formations in the shoreline cliffs, and have created a "flower pot" formation of rock isolated from the cliff. That flower pot is known as Pulpit Rock, and is a sacred site of the Passamaquoddy, known to them as *Muhsilepehkok* (see <http://pmportal.org/dictionary/muhsilepehkok>).



Illustration of Pulpit Rock, view from the east, August 10, 1836, Plate XI, "Atlas of plates illustrating the Geology of the State of Maine accompanying the first report on the geology of the state," by Charles T. Jackson, engraving and lithography by Thomas Moore, 1837. Three people are shown at the base of Pulpit Rock. (<http://www.vintagemaineimages.com/bin/Detail?ln=6415&supst=Enlarge>)

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NA27



Vintage postcard promoting recreational use of Pulpit Rock. Note the sitting woman in yellow.

The intertidal zone at Mill Cove and south to Pulpit Rock have been used by the public for recreation and study for nearly 200 years or more, uninterrupted. The Passamaquoddy have used the same intertidal zone for cultural purposes for many hundreds of years or more. The cliffs and rock formations have been visited as a cultural and public attraction, as well as an educational tool for a very long time. The Mill Cove scenic turnout is the public's only practical foot access to the Perry conglomerate formations and intertidal beach without crossing upland private property.

If Downeast LNG were to receive a FERC certificate, the question arises as to Downeast LNG's legal ability to keep the public away from the terminal jetty and operations to keep the facility safe and secure.

Recent court decisions in Maine (*McGarvey v. Whittredge*, 2011 [see case discussion: at <http://caselaw.findlaw.com/me-supreme-judicial-court/1578696.html>], and *Almeder v. Town of Kennebunkport*, 2012 [see accompanying file for Superior Court's decision: 02\_Almeder\_v\_Town\_of\_Kennebunkport\_2012Oct16.pdf]) indicate that the upland deed property owner of an intertidal zone does not have the legal authority to restrict the

NA27-1

NA27-1 Section 4.10.1.3 of the EIS includes discussion of consultations between Downeast and the Passamaquoddy Tribe regarding impact on access to Mill Cove and providing an alternative point of access. The comment attachment is not included in this appendix of the FEIS but is available for review on the FERC's website under docket number CP07-52 and the unique file accession number 20121127-5014. Also see response to comment NA21-2.

20121127-5014 FERC PDF (Unofficial) 11/27/2012 2:06:57 AM

NA27

public from using that intertidal zone for recreational purposes after prescriptive use has been established. (*Prescriptive use — public uninterrupted use of that intertidal zone, for other than fishing, fowling, or navigation, for 20 years or more with the owner's knowledge and lack of objection.*)

NA27-1  
cont'd

The public's prescriptive use of the intertidal zone from Mill Cove to Pulpit Rock, inclusive, has been clearly established for well beyond the 20 years Maine law requires. Downeast LNG, FERC, and the US DOT cannot now come forward and restrain public recreational use of that intertidal zone.

Safety of the public exercising its right to use the intertidal zone would be compromised by the presence of the Downeast LNG terminal, jetty, pier, and ship. Security of the Downeast LNG facility and associated marine infrastructure would be compromised by the unrestricted presence of the public. The two are intrinsically incompatible.

The recent court decisions cited above indicate Downeast LNG's site selection is inappropriate for reasons not previously considered in the FERC docket and Draft Environmental Impact Statement (DEIS).

Since the public cannot be prohibited from the subject intertidal zone, Downeast LNG does not possess the required property rights for the project operations to be secure. Continued processing of Downeast LNG's permit applications would be unreasonable and contrary to the public interest; therefore, Save Passamaquoddy Bay asks FERC to dismiss with prejudice Downeast LNG's permit applications.

Very truly

Robert Godfrey  
Researcher & Webmaster

CC: Charles Helm, USDOT Pipeline Hazardous Materials Safety Administration  
Alan Moore, US Coast Guard Port Security Specialist  
Donald Soctomah, Passamaquoddy Tribal Historic Preservation Officer  
Sen. Olympia Snowe  
Sen. Susan Collins  
Senator-elect Angus King  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
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20121207-5001 FERC PDF (Unofficial) 12/7/2012 2:00:26 AM

NA28



**Save Passamaquoddy Bay**  
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888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2012 December 6

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
NERA Economic Consulting Report to DOE**

Dear Ms. Bose,

The December 3, 2012, NERA Economic Consulting report to the Department of Energy entitled, "Macroeconomic Impacts of LNG Exports from the United States," (available for download at: [http://www.fossil.energy.gov/programs/gasregulation/reports/nera\\_lng\\_report.pdf](http://www.fossil.energy.gov/programs/gasregulation/reports/nera_lng_report.pdf)) indicates that the more LNG that is exported from the US, the greater the economic benefit. The Executive Summary Key Findings states...

*"Across all these scenarios, the U.S. was projected to gain net economic benefits from allowing LNG exports. Moreover, **for every one of the market scenarios examined, net economic benefits increased as the level of LNG exports increased. In particular, scenarios with unlimited exports always had higher net economic benefits than corresponding cases with limited exports.***

*"In all of these cases, **benefits that come from export expansion more than outweigh the losses from reduced capital and wage income to U.S. consumers, and hence LNG exports have net economic benefits in spite of higher domestic natural gas prices.** This is exactly the outcome that economic theory describes when barriers to trade are removed."*

[Bold emphasis has been added.]

The opposite activity, *importing LNG*, therefore, reduces economic benefit to the United States, providing clear evidence that Downeast LNG has no legitimate purpose and need, and is contrary to the public interest.

For the explicit economic reasons indicated in the report to the Department of Energy, Save Passamaquoddy Bay urges FERC to deny Downeast LNG's applications.

NA28-1

NA28-1 The Commission staff recognizes the recent and ongoing development of domestic shale gas supplies and the related shift toward export of natural gas. However, project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

20121207-5001 FERC PDF (Unofficial) 12/7/2012 2:00:26 AM

NA28

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Senator-elect Angus King  
Rep. Mike Michaud  
Rep. Chellie Pingree  
M.P. John Williamson  
Sen. Olympia Snowe  
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20130222-5078 FERC PDF (Unofficial) 2/22/2013 1:45:02 PM

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Erik G. Nielsen \*

NA29

February 22, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

**Re: Comments on FERC Staff Report, "Recommended Parameters for Solid  
Flame Models for Land Based Liquefied Natural Gas Spills"**

**Docket Numbers: AD13-4, CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose:

This letter requests an extension to file comments on the above-referenced staff report on behalf of Save Passamaquoddy Bay-Canada, Inc. ("SPB-Canada"). SPB-Canada's comments are being drafted by expert Jim E. S. Venart, PE, PhD, Mechanical Engineering, Professor Emeritus of Mechanical Engineering at the University of New Brunswick.

NA29-1

Dr. Venart's areas of specialization include material science, thermodynamics, heat transfer, and fluid mechanics. His research and consulting has been in the areas of loss prevention and risk assessment with industrial accidents dealing with, usually, combustible fluids, fire and explosions. Dr. Venart's CV is attached.

Dr. Venart has carefully studied the Staff Report at issue and is drafting comments that should prove helpful to the Commission's analysis. The comments have been delayed by technical and health issues, but should be able to be completed within two weeks of today's date. SPB-Canada appreciates the Commission's understanding for this extension and will file Dr. Venart's comments in the above-mentioned dockets as soon as they are available.

February 22, 2013 Save Passamaquoddy Bay-Canada, Inc.

by:

*Rebecca Boucher / GH*

Rebecca E. Boucher  
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cc: Service List

1

NA29-1 Dr. Venart's comments on the study conducted by FERC staff have been addressed in the final EIS. See responses to comment letter IND36.

20130228-5395 PERC PDF (Unofficial) 2/28/2013 4:39:28 PM

NA30



# Save Passamaquoddy Bay

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eFiled on 2013 Feb 28

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001**

Dear Ms. Bose,

Bloomberg Businessweek reported on February 27 that Canaport LNG's natural gas output to the United States has fallen 42% this winter, compared to one year ago:

*"Repsol's contracts through Canaport soured after the extracting of gas from shale rock created a glut of the commodity and caused prices to plunge. **Shipments from Canaport have fallen 42 percent this winter** compared to the year before, Bentek Energy LLC data reported by U.S. regulators show."<sup>1</sup>*  
[Bold emphasis added]

Canaport LNG's falling output during the winter months — even with room available on the Maritimes and Northeast Pipeline and with Canaport LNG's underused massive LNG storage capability — contradicts Downeast LNG's claims for the need for the proposed Downeast LNG import and storage project.

Cheap domestic natural gas from the US South and from the Marcellus Shale region in the Northeast can be more long-term and cost-effectively delivered to New England by pipeline expansions and development than with yet another LNG import terminal. The expensive, unnecessary overseas LNG imports being advocated by Downeast LNG, and the negative economic and environmental impacts from constructing and operating an unnecessary terminal would be contrary to US economic, environmental, and public interests.

Due to overwhelming evidence of vast, decades-long US domestic natural gas supply, the lack of market for Canaport's LNG, the significantly-shrinking imports to Everett

NA30-1

NA30-1 See response to comment NA24-3.

<sup>1</sup> *Shell Buys Repsol LNG Assets in Americas for \$4.4 Billion*, Bloomberg Businessweek, 2013 Feb 27, <http://www.businessweek.com/news/2013-02-28/shell-buys-repsol-lng-assets-as-spanish-oil-producer-pays-debt>

20130228-5395 FERC PDF (Unofficial) 2/28/2013 4:39:28 PM

NA30

LNG, and the 2-year absolute absence of imports at Neptune LNG and Northeast Gateway in Massachusetts Bay, all irrefutably point to sufficient domestic natural gas supply without yet another surplus LNG import terminal.

NA30-1  
cont'd

Downeast LNG obviously and utterly fails the purpose and need metric. Save Passamaquoddy Bay asks FERC to deny Downeast LNG's permits.

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Angus King  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
Service List

20130205-5024 PERC PDF (Unofficial) 3/5/2013 2:20:44 AM

NA31



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eFiled on 2013 March 5

Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001

Dear Ms. Bose,

Spanish company Repsol has just sold its world LNG assets to Royal Dutch Shell, with the exception of the Canaport LNG terminal in Saint John, New Brunswick, Canada,<sup>1</sup> just 40 miles from Downeast LNG's proposed terminal. Repsol is 75% owner of Canaport LNG. Canaport LNG was not an attractive asset to Shell, since Canaport has been unable to meet its contract obligations due to the US natural gas glut.

Mirroring the steep decline in — or absolute absence of — LNG imports at all existing US LNG import terminals, Canaport LNG's natural gas sendout volume to the United States is 42% lower this winter than last winter.<sup>2</sup> Being an unattractive asset, Repsol has written down Canaport LNG's value by \$1.3 billion.<sup>3</sup> The write-down is staggering in both value and significance.

*"No specific details of the offer were given, however it was noted that the sale to Shell did not include the Canadian assets, which have actually been valued negatively due to the shale gas boom just south of the border in the US."<sup>4</sup>*  
[Bold emphasis added.]

<sup>1</sup> "Shell acquires Repsol's LNG assets from Spain for \$4.4 billion," 2014-Feb-27, Bloomberg Businessweek, <http://www.bloomberg.com/news/2014-02-27-shell-buys-repsol-lng-asset-as-spanish-oil-producer-cuts-back/>

<sup>2</sup> Ibid.

<sup>3</sup> "Repsol writes down Canaport by \$1.3 billion as it sells LNG assets to the British-owned Shell," 2014-Feb-26, Financial Times, <http://business.ft.com/140625the-buyer-for-canaport-as-shell-picks-up-repsol-lng-asset-2-15m-500-17846>

<sup>4</sup> "Repsol's Sell LNG Assets to Shell," Bloomberg Businessweek, 2014-Feb-26, Oil-free.com, <http://oilfree.com/2014/02/26/repsol-sells-lng-assets-to-shell-in-attempt-to-reduce-debt.html>

## NA31 Save Passamaquoddy Bay

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NA31

Canaport LNG's negative value due to poor performance is a clear indication that there is no need for additional LNG import infrastructure in the New England region. With Downeast LNG unequivocally failing to have purpose and need, Save Passamaquoddy Bay requests that FERC deny Downeast LNG's application permits.

NA31-1

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Sen. Angus King  
Sen. Susan Collins  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Rebecca Boucher, Esq.  
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NA31-1 See response to comment NA28-1.



20130221-5053 FERC PDF (Unofficial) 3/21/2013 12:53:45 PM

NA32



### Save Passamaquoddy Bay

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eFiled on 2013 March 21

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Innocent Passage and Fraud**

Dear Ms. Bose,

This comment addresses claims by Downeast LNG, the US Department of State, FERC, and the US Coast Guard that innocent passage would apply to LNG ships passing through Canadian waters in Head Harbour Passage and Passamaquoddy Bay.

#### Executive Summary

Since 2004 there have been three proposed LNG import terminal projects on the Maine side of Passamaquoddy Bay: Quoddy Bay LNG, Downeast LNG, and Calais LNG. The Quoddy Bay LNG and Calais LNG applications have subsequently been dismissed by FERC due to applicants' deficiencies. One project, Downeast LNG, remains in the process, and is the focus of this comment. However, all three projects entered formal FERC permitting, consuming public funding resources over several years.

LNG terminals on the Maine side of Passamaquoddy Bay require ship transits through Canada's waters of Head Harbour Passage and Passamaquoddy Bay. Canada has determined that such transits are non-innocent; that such transits present unacceptable hazards to the public environment and natural environment. Consequently, in 2006 the Government of Canada announced that LNG ship transits through those waters are prohibited, denying LNG access to the FERC applicants, including Downeast LNG.

In 2007, at the behest of Quoddy Bay LNG, the US Department of State issued a policy opinion based on the UN Convention on the Law of the Sea (UNCLOS) that the US has innocent passage rights through those Canadian waters. Even though the US is not a party to the UNCLOS treaty, and as with all treaties must be a treaty member in order to have rights under it, the result has been that the US Coast Guard, FERC, and other US Government agencies continued to vet Downeast LNG's (as well as Quoddy Bay LNG's and Calais LNG's) permit applications. Former Senator Olympia Snowe and Senator

Susan Collins have lobbied Canadian peers and the US public, insisting on UNCLOS "non-suspendable" innocent passage rights for Downeast LNG and the other applicants.

Save Passamaquoddy Bay demonstrates below that the Department of State's claim was — and remains — false, that Downeast LNG has no access to receiving LNG, and that FERC, the Coast Guard, and other US agencies and politicians should never have advocated for or participated in the ongoing permitting process.

Since receiving LNG is an absolute requirement for Downeast LNG's project, since Downeast LNG cannot receive LNG due to Canada's prohibition, and since the US has no rights of innocent passage under UNCLOS, then Downeast LNG does not have the required access to the product it requires for FERC permitting. Thus, FERC must dismiss Downeast LNG's permit applications.

NA32-1

NA32-1 We recognize that Canada has concerns relating to LNG vessel passage through its waters. However, the Commission has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal.

#### Terms of Use

**BIA** — Bureau of Indian Affairs

**fraud** — deception for financial or personal gain.

**innocent passage**

**Transits involving UNCLOS-member transiting and coastal States** — continuous, expeditious transit through a territorial sea without entering internal waters, and that is not prejudicial to the peace, good order, or security of the coastal state. (UNCLOS defines what is prejudicial.)

**Transits involving at least one Non-UNCLOS-member State** — (Innocent passage is **defined by the coastal State** (in this case, Canada) as is the customary international practice and is considered as such under international law.)

**IBIA** — Interior Board of Indian Appeals (of the US Department of the Interior)

**international law** — rules that are binding among sovereign States.

**NGO** — non-government organization.

**standing** (*locus standi*) — the right to sue in court.

**states parties** — sovereign states (countries) that have formally acceded membership in UNCLOS.

**SIGTTO** — Society of International Gas Tanker and Terminal Operators.

**treaty** — a formal agreement between sovereign States.

**UNCLOS** — United Nations Convention on the Law of the Sea (a 1982 treaty of which the United States is not a member).

**USCG** — United States Coast Guard

#### History

**UNCLOS**

UNCLOS, written in 1982 and taking force in 1994, has codified innocent passage and other legal concepts that apply to treaty party states. The United States is not a party state to the treaty. UNCLOS clearly states that (as with all treaties) only party states have rights under its provisions:

**"States Parties" means States which have consented to be bound by this Convention and for which this Convention is in force.**

— UNCLOS, PART I, Article 1, 2. (1)

The United States has repeatedly declined to ratify joining the UNCLOS treaty; the US has not consented to be bound by the Convention. UNCLOS is unambiguous. UNCLOS rights do not apply to the United States.

Even so, the US Department of State, at the behest of now-defunct Quoddy Bay LNG, issued a statement to the FERC docket that the United States has the right of innocent passage through Canada's Head Harbour Passage and Passamaquoddy Bay (see attached file, 02\_StateDept2DonaldSmith\_2007apr5.pdf). As a result, the US Coast Guard and FERC have indicated that since the State Department has made that declaration, then the US does have the right of innocent passage, and therefore, both FERC and the Coast Guard have continued processing Downeast LNG's (and formerly, the now-defunct Quoddy Bay LNG and Calais LNG) permit applications and related waterway vetting. Save Passamaquoddy Bay demonstrates herein that the Department of State's claim was never true.

It is indisputable that the US is not a party to UNCLOS. The US Navy and Coast Guard advocate ratifying the treaty. Congress has repeatedly attempted to ratify the treaty. If the US were not required to join UNCLOS to reap the benefits of the treaty, then there would be no purpose in ratifying UNCLOS.

The Coast Guard publicly recognizes, via Capt. Stephen Michel's public statement (referenced later in this comment) that the US has no standing in any international court regarding UNCLOS innocent passage.

The US Coast Guard, the US Navy, US Presidents, and others, have repeatedly — yet unsuccessfully — urged Congress to ratify United States' membership in UNCLOS to obtain the benefits of being a party to the treaty.

#### Lack of Standing

Since the United States has repeatedly refused membership in UNCLOS, the US has no standing in any international court regarding UNCLOS provisions. What the US has demonstrated is its *desire* to have those rights, and has improperly *claimed* to have those rights — while also admitting it has no standing regarding those desired rights.

The United States — by its own admission — has no enforceable rights under UNCLOS. The US position is legally indefensible.

In December 2007 Capt. Charles Michel, Chief of the Coast Guard Office of Maritime and International Law, issued his opinion about innocent passage in the subject Canadian waters (see file 04\_Michel\_innocent\_passage\_Macleans\_2007dec11.pdf). Capt. Michel openly admitted that since the US is not a party to UNCLOS the US has no

innocent passage legal standing; the US has no innocent passage rights under international law.

#### US Coast Guard and Canadian Waters

**Congress requires the Coast Guard to deny transits** in waterways used for LNG transits when the Coast Guard judges those waterways to be unsuitable. **The USCG has twice made judgments of the Canadian waterway** — but presumes to declare that Canada does not have that same right.

Sovereigns are equal. Since the United States has made determinations of suitability of the Canadian Waterway, then Canada has the same right. Canada has made such a judgment, has declared the waterway unsuitable for LNG transits, and has repeatedly informed FERC and the US Government at the highest level that LNG transits are prohibited.

Instead of respecting Canada's sovereign and equal authority, the US has blustered and postured in attempts to bully Canada, and has continued to cost US citizens with the price of the wrongful US position.

The US cannot have it both ways. As with all treaties, the US cannot have rights under a treaty agreement while simultaneously refusing to join that treaty. The US has no UNCLOS right of innocent passage through Canadian waters when Canada declares LNG transits through those waters as non-innocent. The United States claim to rights under UNCLOS is impotent.

By its own admissions (USCG Capt. Stephen Michel, former Deputy Secretary of State Richard Armitage, then-Secretary of Defense Leon Panetta, then-Secretary of the US Department of State Hillary Clinton), the US has no right in any international court to dispute Canada's prohibition.

**"Without being a party to the Law of the Sea Convention [UNCLOS], we cannot avail ourselves of the dispute-resolution provisions."** [Bold emphasis added.]

— CAPT Stephen Michel, Chief,  
US Coast Guard Office of Maritime & International Law  
December 12, 2007

In August 2012, **Former Deputy Secretary of State Richard Armitage** stated...  
"I find it quite ironic," he told *The Epoch Times* at a forum in Washington, D.C., on Aug 15. "We abide by the conventions of the Law of the Sea and we don't get the protections of it because we are not technically a signatory, so I think it is absurd." [Bold emphasis added.]

— "Opposition to Law of Sea Questioned,"  
*The Epoch Times*, August 15, 2012



**[Secretary of Defense Leon] Panetta** described UNCLOS as "the bedrock legal instrument underpinning public order across the maritime domain," and asked the Senate committee, **'How can we argue that other nations must abide by international rules when we haven't joined the treaty that codifies those rules?'**" [Bold emphasis added.]

— "Opposition to Law of Sea Questioned,"  
The Epoch Times, August 15, 2012

The Canadian government's **Prime Minister Stephen Harper**, then-Cabinet Minister **Greg Thompson**, Member of Parliament **John Williamson**, and others, have repeatedly stated Canada's firm position on this issue the the highest levels of US government:

"Citing threats to the environment and public safety, **the Canadian government has stated it would use 'all legal and diplomatic means' to prevent LNG tankers from entering Head Harbour Passage.**" [Bold emphasis added.]

— "New minister restates ban on LNG ships,"  
The Quoddy Tides, 2007 Sep 14

Secretary of State **Hillary Clinton's** statement to the Senate Foreign Relations Committee on 2012 May 23:

**"...the Convention secures the rights we need** for U.S. military ships, and the commercial ships that support our forces, to meet national security requirements in four major ways:

...  
• **by affording our military and commercial vessels and aircraft necessary passage rights, not requiring permission, through other countries' territorial seas and archipelagoes, as well as through straits used for international navigation** (such as the critical right of submarines to transit submerged through such straits);

...  
**"As a non-party to the Convention, the United States must rely on customary international law as a legal basis for invoking and enforcing these norms.** But it is risky to assume that customary law will preserve these norms forever. There are increasing pressures from some coastal States to augment their control over the activities of other nation's vessels off their coasts in a manner that would alter the balance of interests struck in the Convention.

**"Joining the Convention would secure our navigational rights and our ability to challenge other countries' behavior on the firmest and most persuasive legal footing, including in critical areas such as the South China Sea and the Arctic. Only as a Party to the Convention can the United States best protect the navigational freedoms enshrined in the Convention** and exert the level of influence that reflects our status as the world's foremost maritime power." [Bold emphasis added.]

Secretary of Defense **Leon Panetta's** statement to the Senate Foreign Relations Committee on 2012 May 23:

**"The fundamental point is clear: if the United States is to fully assert its historic role as a global leader, it must accede to this important Convention.**

**"The Law of the Sea Convention is the bedrock legal instrument underpinning public order across the maritime domain. We are the only permanent member of the U.N. Security Council that is not a party to it. This puts us at a distinct disadvantage when it comes to disputes over maritime rights and responsibilities** with the 162 parties to the Convention, several of which are rising powers.

**"The basic idea of the Convention is to establish some basic rules of the road — to define what can be done, where, in the world's oceans. More precisely, it provides for:**

- **The legal divisions of maritime space and accompanying rights of innocent passage through territorial waters;**
- **Transit passage through vital international straits;**

...  
**"...by joining the Convention, we can secure our navigational freedoms and global access for military and commercial ships, aircraft, and undersea fiber optic cables. As it currently stands, we are forced to assert our rights to freedom of navigation through customary international law, which can change to our detriment. Treaty law remains the firmest legal foundation upon which to base our global presence, on, above, and below the seas. By joining the Convention, we would help lock in rules favorable to freedom of navigation and our global mobility."** [Bold emphasis added.]

#### US Department of the Interior, Bureau of Indian Affairs Fraud

On 2001 June 1, during Quoddy Bay LNG's formal FERC permitting, the company induced the Bureau of Indian Affairs (BIA) to inappropriately approve a ground lease agreement between the company and the Pleasant Point Passamaquoddy Tribal Government. On 2012 Oct 4 the Department of Interior, Office of Hearings and Appeals, Interior Board of Indian Appeals, Administrative Judge Debora G. Luther determined that the BIA's approval of the ground lease between the Pleasant Point Tribal Government and Quoddy Bay LNG was not done properly; therefore, approval was never finalized, and the lease never went into effect. A lease never existed (see file 03\_IBIA\_groundlease\_invalid\_2012Oct4.pdf). The BIA had committed a fraud against the American public.

Because of that fraudulent approval by the BIA — but before the Interior Board of Indian Appeals (IBIA) judge issued her opinion in 2012 — FERC, the USCG, NOAA, the Army Corps of Engineers, and other US agencies continued the Quoddy Bay LNG permitting process at the expense of US taxpayers. Effort and costs were unnecessarily brought

on state and municipal governments, as well as NGOs and civilians, and federal, provincial, and municipal governments in Canada.

#### Customary Maritime Law

Customary maritime law indicates that the coastal state (Canada, in this instance) defines what is and what is not innocent. Canada has defined LNG transits through its waters of Head Harbour Passage and Passamaquoddy Bay as non-innocent. Sans joining UNCLOS, the US has no standing in international court to dispute Canada regarding UNCLOS provisions and rights. Canada determined in 2006 that LNG passage through Head Harbour Passage and Passamaquoddy Bay is non-innocent. The United States has no legal UNCLOS authority to dispute Canada's determination in any international court.

#### Fraud

The US Department of State knows that the US is not a party to UNCLOS, and therefore has no rights under the treaty. Yet, at the bidding of Quoddy Bay LNG — the same company that induced the BIA to issue a fraudulent lease approval — the State Department issued a letter to the FERC docket claiming LNG ships transiting to proposed terminals in Passamaquoddy Bay have innocent passage rights through Canada's Head Harbour Passage and Canadian waters in the bay (see accompanying file 02\_StateDept2DonaldSmith\_2007apr5.pdf).

Absent UNCLOS, customary maritime law provides the coastal state (Canada, in this instance) to define "innocent." Canada has determined the transits would not be innocent, and prohibits LNG transits through those waters.

FERC and the Coast Guard are well aware that the US is not a party to UNCLOS, and have known — or should have known — from the start that the State Department claim is false. Yet, those federal agencies were complicit, "following orders" instead of blowing the whistle on the Department of State. FERC, the USCG, and others have been complicit in the Department of State's fraud against the American public.

Resulting from USCG Capt. Michel's statement referenced earlier, the US Coast Guard should have blown the whistle on the Department of State's fraudulent position. Instead, the Coast Guard twice conducted its Waterway Suitability Assessment and Letters of Recommendation of both the Canadian waterway and the US waterway for LNG ship transits to proposed terminals on the Maine side of Passamaquoddy Bay.

Instead of blowing the whistle on the Department of State, the Coast Guard Captain of the Port for Northern New England issued Letters of Recommendation for all three LNG terminal applicants, of which just Downeast LNG remains.

The result has been a waste of public funds by FERC, the Coast Guard, NOAA, the US Army Corps of Engineers, and other agencies. It has also resulted in wasted funds by

agencies within the State of Maine, municipalities in the US and Canada, as well as non-governmental organizations, and private citizens.

Continued permit processing has been contrary to the public interest — especially so, now that the natural gas industry and the US Government have determined a many-decades domestic resource of natural gas that moots the need for additional import infrastructure.

Quoddy Bay LNG induced the Bureau of Indian Affairs to commit fraud, as previously indicated. Quoddy Bay LNG also induced the Department of State to issue a policy statement claiming the US has innocent passage rights under international law through Head Harbour Passage and the Canadian side of Passamaquoddy Bay. Other than UNCLOS — to which the US is not a party thus has no standing — and customary maritime law, by which Canada (the coastal state) determines what is innocent and what is not, there is no enforceable international law providing the US with innocent passage rights through Canadian waters.

The Department of State's false claim to innocent passage status has resulted in considerable waste of multiple US agencies' time and resources spent vetting the three LNG projects proposed for Passamaquoddy Bay. It has strained US-Canadian relations. It has damaged intracommunity relationships, and it has damaged interpersonal relationships. It has been against the public interest.

The State Department's position was taken during President George W. Bush's administration and during Condoleezza Rice's tenure as Secretary of State. Now is an opportune time to correct that error and set the matter straight.

Save Passamaquoddy Bay requests that the Department of State withdraw its opinion regarding LNG ship transits through Canada's Head Harbour Passage and Passamaquoddy Bay.

The United States Government agencies and personnel — via the Bureau of Indian Affairs, US Department of State, FERC, US Coast Guard, US Border Patrol, and Senator Susan Collins — have engaged in a pattern of unethical and fraudulent behavior to benefit inappropriately-sited and unneeded LNG projects in Passamaquoddy Bay. The federal government has attempted to bully Canada and the American public to wrongly benefit those unneeded LNG projects. All this has unnecessarily and inappropriately cost the American public precious resources.

Downeast LNG, therefore, has no access to the LNG it requires for a legitimate project. The US Government's position on Downeast LNG's behalf is indefensible. The US is swimming in decades-worth of domestic-source natural gas. US LNG import terminals — even in the New England region — are either idle or are experiencing declining LNG imports. It is more than evident that there is no need for yet another LNG import terminal. Because of US lack of authority related to UNCLOS, it is even more evident



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NA32

that Downeast LNG has no chance of receiving the LNG required for legitimate permitting; thus, the project has no business in the FERC permitting process.

Save Passamaquoddy Bay demands that FERC cease its complicity, and immediately dismiss Downeast LNG's permit applications.

Very truly,

Robert Godfrey  
Researcher & Webmaster

CC: Associated Press  
US Department of Justice  
US Department of State Office of Inspector General  
US Department of Energy Office of Inspector General  
US Department of Homeland Security Office of Inspector General  
Senator Angus King  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Sen. Susan Collins  
Rebecca Boucher, Esq.  
Service List

20130325-5021 FERC PDF (Unofficial) 3/25/2013 12:16:44 AM

NA33



# Save Passamaquoddy Bay

A 3-Nation Alliance  
(US • Passamaquoddy • Canada)  
PO Box 222 • Eastport, ME 04631  
(207)853-2922  
info@SavePassamaquoddyBay.org  
[www.SavePassamaquoddyBay.org](http://www.SavePassamaquoddyBay.org)

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

eFiled on 2013 Mar 25

**Re: Downeast LNG, Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001  
Innocent Passage and Fraud**

Dear Ms. Bose,

The accompanying file **(01\_State\_Dept\_Fraud\_revised)** is a revision of Accession No. 20130321-5053. The three other accompanying files remain unchanged.

NA33-1

There are three changes contained in the document:

1. The revision corrects the first name, and provides the current rank, of US Coast Guard **RADM Charles Michel<sup>1</sup>, Chief, Office of Maritime and International Law, who publicly indicated that the US has no standing in international court regarding UNCLOS innocent passage. Thus, RADM Michel has confirmed that the US Department of State claim of innocent passage in the Canadian waters in Head Harbour Passage and Passamaquoddy Bay is fraudulent against the American public, and confirms that US Coast Guard and FERC vetting of Downeast LNG's applications have been complicit in that fraud.**
2. **This revision corrects a typographical error in the date in the first sentence under the section, "US Department of the Interior, Bureau of Indian Affairs Fraud."** The actual date, **2005 June 1**, has replaced that error.
3. **Former Secretary of State Condoleezza Rice's first name spelling** has been corrected.

Very truly

Robert Godfrey  
Researcher & Webmaster

<sup>1</sup> He was CAPT Charles Michel when he made the statement. He is now RADM Charles Michel.

NA33-1 Comment noted. Please see response to comment NA32-1.

20130325-5031 FERC PDF (Unofficial) 3/25/2013 12:16:44 AM

NA33

CC: Associated Press  
US Department of Justice  
US Department of State Office of Inspector General  
US Department of Energy Office of Inspector General  
US Department of Homeland Security Office of Inspector General  
Senator Angus King  
Rep. Mike Michaud  
Rep. Chellie Pingree  
Sen. Susan Collins  
Rebecca Boucher, Esq.  
Service List

## STATE AGENCIES

### SA1 Maine Historic Preservation Commission

ORIGINAL

MAINE HISTORIC PRESERVATION COMMISSION  
55 CAPITOL STREET  
STATE HOUSE STATION  
AUGUSTA, MAINE 04333

SA1

JOHN ELIAS BALDACCIO  
GOVERNOR

2009 JUN 24 A 9 28  
FEDERAL ENERGY REGULATORY COMMISSION

EARLE G. SHETTLEWORTH, JR.  
DIRECTOR

June 16, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

Project: MHPC #0467-06 - OEP/DG2E/Gas Branch 3; Downeast LNG, Inc.;  
Downeast Pipeline, LLC; Docket Nos. CP07-52-000,  
CP07-53-000, CP07-53-001

Town: Robbinston to Baileyville, ME

Dear Secretary Bose:

In response to your recent request, I have reviewed the information received May 18, 2009 to continue consultation on the above referenced project in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA).

Our office has reviewed the draft Environmental Impact Statement (EIS) dated May 2009 prepared by the US FERC. Our office concurs with the information and recommendations contained within Section 4.10 Cultural Resources (pages 4-282-4-293). Our office is still awaiting the various surveys and studies that we previously requested.

We look forward to continuing Section 106 consultation with the US FERC on this project.

Please contact Robin Stancampiano of my staff if we can be of further assistance in this matter.

Sincerely,

*Kirk F. Mohney*  
Kirk F. Mohney  
Deputy State Historic Preservation Officer

cc. Tim Glidden, Maine State Planning Office

PHONE: (207) 287-2132

PRINTED ON RECYCLED PAPER

FAX: (207) 287-2335

SA1-1 Thank you for your comment. We agree that Downeast has still not provided all data necessary to complete the process of compliance with the NHPA, as discussed in section 4.10.4 of this EIS. Therefore, the FERC staff has recommended that Downeast file all cultural resources survey and evaluation reports, required treatment plans for historic properties that may be adversely affected, and the comments of the SHPO and interested Indian tribes on those reports and plans, prior to construction.

SA2

## FEDERAL ENERGY REGULATORY COMMISSION

Downeast LNG, Inc.	)	Project Nos. CP07-52-000,
Downeast Pipeline, LLC.	)	CP07-53-000, and
	)	CP07-53-001
	)	

## COMMENTS ON DRAFT ENVIRONMENTAL IMPACT STATEMENT

The Maine State Planning Office ("SPO") offers the following comments on the Federal Energy Regulatory Commission's ("FERC") draft Environmental Impact Statement ("DEIS") regarding Downeast LNG, Inc.'s, and Downeast Pipeline, LLC's (hereinafter referred to collectively as "DELNG") proposed liquefied natural gas ("LNG") terminal, natural gas pipeline, and associated facilities to be located in Washington County, Maine.

In addition to the DEIS' socio-economics analysis and governance issues, these comments focus principally on public safety and emergency response-related matters, including but not limited to those discussed in the State of Maine's ("State") Safety Advisory Report submitted to the Commission by SPO on or about January 19, 2007, pursuant to Section 311(d) of the Energy Policy Act of 2005. Accordingly, SPO has prepared these comments in consultation with the Maine Emergency Management Agency ("MEMA"), the Maine Department of Transportation, the Maine Pilotage Commission ("MPC"), the Maine Department of Marine Resource's Marine Patrol, the Maine State Fire Marshall's Office, the Maine State Police, the Maine Department of Conservation's Bureau of Parks and Lands ("BPL"), and the Maine Public Utilities Commission ("MPUC").<sup>1</sup> Specific comments of MPC and BPL are incorporated herein by reference and provided as Attachments 1 and 2, respectively.

## Socio-economics

SPO has reviewed the socioeconomic chapter of the DEIS and found the conclusions to be reasonable and credible. The DEIS relies heavily on a report done by University of Maine Professor Todd Gabe and colleagues. The authors are experienced with these types of economic impact studies and used widely accepted economic modeling techniques. SPO reviewed the report, found the methodology and conclusions to be plausible, and considers FERC's reliance on its analysis appropriate.

<sup>1</sup> We note that the Maine Historic Preservation Commission has submitted comments in accordance with its role under Section 106 of the National Historic Preservation Act.



SA2

The Host Community Benefits Agreement and Fishermen Communication, Coordination, and Compensation Plan may provide important tools to ensure local interests are addressed and project-related community benefits secured. SPO suggests that FERC ensure that each of these agreements is completed to the satisfaction of pertinent stakeholders and provided to the Commission no later than prior to operation of the project.

SA2-1

**Public safety and emergency response**

DELNG is proposing this major industrial facility in a relatively remote, low population, and low income part of Maine with commensurately limited human, infrastructural, and financial resources. It is imperative that the Emergency Response Plan and related Cost-Sharing Plan called for in FERC staff's recommended mitigation measures (see items 42 and 43 at DEIS, pp. 5-37 and 38) ensure the inter-governmental and inter-agency cooperation needed to fully ensure public safety, including timely and effective emergency response capability, as well as provision of all necessary funding by DELNG. Any costs that may be incurred by local, county, or state government pursuant to the Plan should be identified and funded by DELNG. To this end, SPO urges specific provision for consultation with pertinent local, county and state marine transportation, emergency planning and response, and public safety agencies in developing all cost estimates for purposes of the Cost-Sharing Plan and opportunity for such agencies to comment on a draft Cost-Sharing Plan at least 30 days prior to its submission to the Commission for its review and approval.

SA2-2

At various points, the DEIS acknowledges the important role of state, county, and local officials regarding assurance of project safety. Chapter 130 of MPUC's rules require immediate notice to the MPUC of any serious accident involving the loss of human life, and any event occurring upon its premises or directly or indirectly arising from or connected with the maintenance or operation of its physical facilities or equipment that requires evacuation of the general public, or that results in, or is likely to result in, disruption of utility service to more than 500 customers or 1% of a utility's customers, whichever is greater, or to critical facilities identified by other public utilities for a period of longer than 30 minutes. We suggest that the DEIS reference this rule and include a recommendation that DELNG's safety and emergency response-related planning include a protocol to ensure it is addressed as appropriate.

SA2-3

The DEIS indicates that the pipeline system would participate in the state "One Call" system.<sup>2</sup> The "One Call" system for Maine is the Dig Safe System®, located in Massachusetts. MPUC has jurisdiction to enforce the "Dig Safe" law.<sup>3</sup> We recommend that the DEIS note MPUC's role on this issue.

<sup>2</sup> DEIS at 4-393

<sup>3</sup> See 23 M.R.S. §2360-A

SA2-1 The Host Community Benefits Agreement demonstrates Downeast's intention to compensate the host community for accommodating the LNG facility. It is the duty and authority of the FERC's Commissioners to determine if the project is consistent with the public interest. However, the FERC staff does not consider the potential economic benefits to the local community to be within its purview. The Host Community Benefits Agreement is a negotiated agreement between Downeast and the town of Robbinston. With regard to the Fishermen Communication, Coordination and Compensation Plan, the Downeast EIS includes a recommendation that Downeast file the final Fishermen Communication, Coordination and Compensation Plan prior to operation.

SA2-2 Both the WSR and the EIS recommend that Downeast coordinate the development of the ERP and Cost-Sharing Plan with the Coast Guard; state/provincial, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal/tribal agencies. See section 4.12 of the final EIS for further information.

SA2-3 See response to comment SA2-2. The EIS recommends the ERP include designated contacts with state and local emergency response agencies; procedures for the prompt notification of appropriate local officials and emergency response agencies; procedures for notifying residents and recreational users; and evacuation routes/methods, among other things. The ERP would be the appropriate document to include a protocol for addressing Chapter 130 of Maine PUC's rules. Downeast has agreed to contact the local Dig Safe system prior to construction to determine the location of utilities to be crossed. These utility crossings would then be marked in the field during pre-construction surveys.

SA2

**CZMA; federal consistency**

As acknowledged in the DEIS<sup>4</sup>, DELNG has obligations, including those pursuant to the Coastal Zone Management Act ("CZMA") and Clean Water Act ("CWA"), to ensure that its proposed development meets pertinent state land use, environmental, and natural resources protection standards and that related issues and concerns are duly addressed. The State has neither granted nor waived CZMA and CWA authorizations; nor are applications for them presently pending. DELNG previously filed and subsequently withdrew its CZMA consistency certification, application for water quality certification, and related state permit applications.

The DEIS indicates that DELNG intends to provide its certification of consistency with Maine's coastal zone management program and file related state license and permit applications, including application for water quality certification, with the Maine Department of Environmental Protection ("DEP") in the third quarter of 2009.<sup>5</sup> DEP's review<sup>6</sup> of DELNG's proposal through consideration of necessary data and information provided in applications for approval under pertinent state land use, environmental, and water quality laws will serve as the State's consolidated review of the proposal for consistency with the enforceable policies of Maine's federally-approved coastal zone management program pursuant to Section 307 of the CZMA and for water quality certification under Section 401 of the Clean Water Act. DEP's review of these applications encompasses a wide range of the natural resources and environmental issues assessed in the DEIS and will provide the basis for the State's response to DELNG's consistency certification as well as the State's water quality certification decision.<sup>7</sup>

The State intends to consider and address pertinent natural resources-related issues in the context of its own above-noted reviews of the DELNG's proposal. Accordingly, we are not offering detailed comments on such issues at this time. Assurance of consistency with pertinent state land use and environmental standards must be a fundamental requirement of any Commission approval of DELNG's proposal. As noted in its Safety Advisory Report, and reiterated here, SPO views such a requirement as integral to ensuring that "state and local safety considerations", which encompass the natural aspects of the project area, are addressed.<sup>8</sup>

FERC staff recommendation 32<sup>9</sup> suggests that DELNG file documentation of the State's concurrence with its CZMA consistency certification "prior to construction."<sup>10</sup> If

<sup>4</sup> See DEIS at 1-11-18 and Table 1.3-1; 4-241-242

<sup>5</sup> DEIS at 4-244

<sup>6</sup> The Board of Environmental Protection, which previously exercised jurisdiction over review of DELNG's state applications for CZMA consistency and related purposes, is an agency within DEP.

<sup>7</sup> State land use and environmental laws (see Table 4.7.5.1-1) provide the "enforceable policies" of Maine's networked coastal zone management program.

<sup>8</sup> See DEIS, Appendix D, which provides FERC's responses to this and other recommendations in the State's Safety Advisory Report.

<sup>9</sup> DEIS at 5-35

<sup>10</sup> Recommended condition 32 does not specifically address the timing of FERC's decision in relation to the State's water quality certification decision pursuant to Section 401 of the CWA, i.e., whether FERC

SA2-4

SA2-4 It is typical practice for the Commission to make its decision before all other federal or state permits are obtained. We have included a recommendation that Downeast file documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof) prior to receiving authorization from the Director of OEP to begin construction. Table 1.3-1 in the final EIS lists the major permits, approvals, and consultations that Downeast has agreed to obtain for the proposed project. The FERC encourages cooperation between applicants and state and local authorities. However, the courts have ruled that state and local agencies cannot unreasonably delay construction of FERC approved facilities.

SA2

the Commission approves and elects to condition its approval of DELNG's proposal on pre-construction documentation of CZMA consistency concurrence, SPO urges that the DEIS clarify that such action is in no way intended to limit or otherwise affect the nature or timing of the state review pursuant to Section 307 of the CZMA or Section 401 of the CWA; and that the terms and conditions of any state consistency concurrence would, together with the those of the state water quality certification, be incorporated as enforceable terms and conditions of FERC's approval.<sup>11</sup>

SA2-5

SA2-5 See response to comment SA2-4.

#### State submerged lands lease

The DEIS appears to incorrectly characterize the nature of federal and state authority regarding authorization for use of state-owned submerged lands. Table 1.3-1, titled Major Permits, Approvals, and Consultations for the Downeast LNG Project, includes reference to the submerged lands lease and easement process administered by Maine's Bureau of Parks and Lands ("BPL"). In its general discussion of these approvals, the DEIS states that "the FERC encourages cooperation between applicants and state and local authorities, but this does not mean that state and local agencies, through applications of state and local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by the FERC" and asserts that "any state or local permits issued with respect to jurisdictional facilities must be consistent with the conditions of any authorization issued by the FERC."<sup>12</sup> BPL's decision, pursuant to pertinent state law, on whether and under what conditions to issue a lease or easement on state-owned submerged lands for DELNG's proposed project involves a proprietary not regulatory matter, is not a "permit", and is not subject to or otherwise limited by authorities administered by the Commission.<sup>13</sup> We suggest that this part of the DEIS be clarified accordingly.

SA2-6

SA2-6 FERC staff understands that a submerged lands lease from the Maine Bureau of Parks and Lands (Maine BPL) is not a permit. Downeast has agreed to obtain this lease from the Maine BPL, which is necessary for Downeast to obtain and use this area for the proposed project.

#### Intrastate utilities

The DEIS references a new Eastern Maine Electric Cooperative ("EMEC") facility to supply electrical power to the Downeast facility. The proposed EMEC facility would be an intrastate extension of the EMEC distribution system. The DEIS indicates that the MPUC must approve this new facility when, and if, it is proposed. As there is no current proposal by EMEC, the State cannot offer comments at this time on the facility itself or on what type of MPUC approval (if any) would be required. We recommend that FERC require DELNG to consult with MPUC regarding its plans for the facility and

SA2-7

SA2-7 The EMEC transmission line and substation are non-jurisdictional facilities. The potential impacts of these facilities are discussed in section 2.9 of the EIS, as required by the NEPA; however, these facilities do not require approval from the FERC. It would be up to EMEC to obtain the appropriate permits and approvals. Because Downeast would not require electrical service at the terminal site until after a FERC decision on the LNG project, Downeast has indicated that EMEC has not yet applied for the required environmental permits or approvals for the electrical facilities.

would condition an approval on receipt of documentation of water quality certification prior to construction. This should be clarified.

<sup>11</sup> SPO makes this comment with reservation of its rights, including the right to contest the Commission's issuance of an approval prior to state action on DELNG's consistency certification or application for water quality certification.

<sup>12</sup> DEIS at 1-12

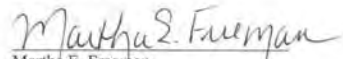
<sup>13</sup> SPO makes this comment with reservation of its rights regarding the DEIS's assertion of the scope of the Commission's authority under EPAct of 2005 relative to state license and permit decisions and the applicability of decisions referenced in footnote 1 on 1-12.

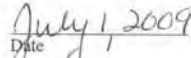
SA2

prior to project operations provide documentation that the EMEC has secured any required authorization from MPUC.

SA2-7  
cont'd

Respectfully submitted,

  
Martha E. Freeman  
Director, Maine State Planning Office

  
Date

SA2



JOHN ELIAS BALDACCIO  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0016

DAVID A. COLE  
COMMISSIONER

June 16, 2009

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Room 1A  
Washington, DC 20426

Re: Docket No. CP07-52-000 Downeast LNG, Inc.

Dear Secretary Bose:

The Maine Pilotage Commission has state jurisdiction for the licensure and regulation of pilotage activities under Maine state law and consists of a Gubernatorially-appointed seven-member board.

The Maine Pilotage Commission views the mitigation proposed by the U.S. Coast Guard and FERC as satisfactory measures that will help to ensure the safe passage of LNG vessels from the open ocean to the proposed terminal in Robbinston on the St. Croix River. We agree with the Coast Guard's assessment as outlined on page 4-380 that the intended route is "suitable for the type and frequency of marine traffic associated with this proposed project."

SA2-8

SA2-8 Comment noted.

Furthermore, the Administrator from the Maine Pilotage Commission attended a bridge simulator training exercise conducted by the licensed harbor pilots for this area at MSI in Newport, Rhode Island in November 2008. Over the course of a week, the three pilots in attendance thoroughly handled each adverse scenario that was presented to them with precision, local knowledge and professionalism.

From a regulatory standpoint, the Maine Pilotage Commission has no reason to dispute the opinion that LNG vessels can be safely piloted between the pilot station east of Quoddy Head and the proposed terminal location in Robbinston.

Sincerely,  
  
Kevin J. Rousseau, Administrator

Maine Pilotage Commission

kjr/



THE MAINE DEPARTMENT OF TRANSPORTATION IS AN AFFIRMATIVE ACTION - EQUAL OPPORTUNITY EMPLOYER



SA2



STATE OF MAINE  
DEPARTMENT OF CONSERVATION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0022

DETRICK R. AUGERSON  
(207) 295-2213

June 22, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., NE, Room 1A  
Washington, DC 20426

Re: OEP/DG21E/ Gas Branch 3, Downeast LNG, Inc., Downeast Pipeline, LLC  
Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001

Dear Secretary Bose:

The Maine Department of Conservation, Bureau of Parks and Lands has reviewed the Draft Environmental Impact Statement regarding the Downeast LNG Terminal and Pipeline proposal at Passamaquoddy Bay in Robbinston, Maine and offer the following comments:

**Jurisdiction:** The Bureau of Parks and Lands serves as the state agency responsible for the management of public submerged lands extending from the mean low water line of tidal waters seaward to Maine's 3-mile territorial limit including tidal rivers upstream to the farthest natural reach of the tides; the river bed of international boundary rivers; and inland lakes and ponds that in their natural state are larger than 10 acres in size. This jurisdiction includes Passamaquoddy Bay and both the tidal and non-tidal portions of the St. Croix River to the Canadian border. Private development on these lands requires a conveyance from the State to provide the applicant with a limited legal interest in the project site for the purpose of environmental permitting, project construction, and operation of the facility. Submerged lands conveyances are authorized upon a finding that the proposed development will not unreasonably interfere with customary or traditional public access ways to or public trust rights in, on, or over the submerged lands and waters above those lands. The Bureau may refuse to lease submerged lands, place conditions on the conveyance to address public trust concerns, or require compensation for loss or diminution of public trust rights or access. The Bureau's leasing authority is a proprietary decision involving state-owned submerged lands and not a regulatory permit subject to or otherwise limited by authorities administered by the Commission.

**Sendout Pipeline:** An approximate one mile section of the sendout pipeline corridor is proposed for installation under the St. Croix River on public submerged lands. A submerged lands lease will be required for this pipeline section and, under the Bureau's rules; the applicant will need to demonstrate that there is no reasonable alternative site available.

It is also our understanding that Calais LNG, Inc. may be proposing to locate its sendout pipeline in the same area but on upland adjacent to the southeast shoreline of the river. This raises a number of questions about possibly co-locating the pipelines, maintaining separation distances if not co-located, and construction timing that will need to be resolved.

SA2-9

SA2-10

SA2-9 Table 1.3-1 1 includes the submerged lands lease from the Maine BPL and section 4.7.1.3 of the final EIS has been modified to include a description of submerged lands lease required from the Maine BPL for the portion of pipeline to be drilled under the St. Croix River. The applicant's submittal under accession number 20090710-5103 on the FERC eLibrary includes in Appendix 21 the current HDD plan for crossing the St. Croix River (see construction diagram number DOW-E-HDD-15.0 Rev. No. A), including the location of mud pits, pipe assembly areas, all areas to be disturbed or cleared for construction, and an alternative for crossing the St. Croix only in the event the HDD is unsuccessful. Section 4.3.2.2 of the final EIS describes Downeast's proposed alternate route inland of the St. Croix HDD location.

SA2-10 Since publication of the draft EIS, the Commission has dismissed its review of the Calais LNG Project. Therefore, the discussion of the Calais pipeline in this area has been removed from the final EIS.

BUREAU OF PARKS AND LANDS  
WILLARD B. HARRIS, JR., DIRECTOR



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SA2

**Terminal Facility and Pier:** In the Draft EIS, Commission staff conclude that recreational boating and fishing is relatively light and that impacts created by LNG carrier safety zones on other marine uses will be of short duration and therefore insignificant. While we have not independently assessed recreational and commercial activity, we believe the analysis may underestimate the potential impacts regarding marine uses in the terminal area and along the carrier transit route.

The Bureau estimates that the proposed 3,866 foot terminal pier with mooring structures and associated vessel berthing areas will require a submerged lands lease of approximately 10 acres and extend approximately 4,000 feet from shore. It is our understanding that operational and safety measures being considered will establish a permanent safety zone adjacent to the pier facility that will require all boats, including small recreational watercraft to avoid the pier area at all times and be directed further out from shore (up to 5,500 feet) when LNG carriers are berthed at the facility. These safety areas will not require a submerged lands lease but will be considered in assessing the public trust impacts of the proposal.

SA2-11

Given the estimated number of carrier visits per year, the estimated offloading schedule, and carrier transiting restrictions, LNG carriers can reasonably be expected to be at the terminal for a portion of 2 days per week or more if delayed by weather or other circumstance over the lifetime of the project. The Bureau anticipates that this issue, in addition to the extensive safety zone around the carriers while in transit, will be a primary concern raised by recreational boaters, other waterway users, and those promoting public access and eco-tourism on the Maine side of the bay during our review of the submerged lands lease application.

The Bureau recommends that the applicant explore options for allowing small watercraft to transit under the pier in order to maintain near-shore navigation options and other mitigations measures to address the above concerns.

SA2-12

Thank you for the opportunity to comment.

Sincerely,



Dan Prichard  
Submerged Lands Program  
Bureau of Parks and Lands

SA2-11 We have estimated that a 3,862-foot-long, 37-foot-wide pier would permanently occupy 3.6 acres of submerged land. This does not include vessel berthing areas that would be used on a temporary basis while LNG vessels were at the facility. The exact acreage included in the submerged lands lease would be determined during lease negotiations. The land use, socioeconomic, and safety factors associated with the proposed project are discussed in sections 4.7, 4.8, and 4.12 respectively, of the EIS. We understand that these issues will be considered by the BPL in its review of Downeast's submerged lands lease application.

SA2-12 The Coast Guard exercises regulatory authority over LNG facilities which affect the safety and security of port areas and navigable waters. The Coast Guard is responsible for matters related to navigation safety and security, vessel engineering and safety standards, and security of facilities or equipment located in or adjacent to navigable waters. It would be up to the Captain of the Port (COTP), under the authority of the Ports and Waterways Safety Act, to determine whether to allow small watercraft into the 500-yard, fixed safe/security zone around the moored LNG vessel, which would include a portion of the pier. In addition, Downeast's Operations Manual, Emergency Manual, and Facility Security Plan, which are subject to review and approval by the COTP prior to commencement of facility operations, would include provisions for the safety and security of the pier.

## LOCAL AGENCIES AND GOVERNMENTS

### LA1 County of Washington

---

COUNTY OF WASHINGTON  
P.O. Box 297, County Courthouse  
Machias, ME 04654  
(207) 255-3127  
Fax: (207) 255-3313  
e-mail: wcco@midmaine.com

LA1

Commissioners:

Christopher M. Gardner, Chairman  
John B. Crowley, Sr., Commissioner  
Kevin L. Shorey, Commissioner

County Manager:

Linda Pagels-Wentworth

Secretary:

Gail Popham

June 10, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Downeast LNG Project  
Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001

The Washington County Commissioners would like to take the opportunity to file this written response to a motion filed by Shems, Dunkiel, Raubvogel & Saunders PLLC on behalf of Nulankeyutomonon Nkihtahkomikumon (We Take Care of Our Land), Save Passamaquoddy Bay – Canada, Inc, and Save Passamaquoddy Bay – United States (SPB), requesting a 90-day extension of the public comment period on the Draft Environmental Impact Statement (DEIS) prepared for the Downeast LNG project in the above captioned dockets.

The Commissioners certainly appreciate the concern expressed by all parties pertaining to this filing and we are well aware of the intense discussions overall surrounding the referenced project. However, regardless of that we feel that as a matter of procedure the requested extension is not prudent at this time. In order to preserve the integrity of the process deviations from it must come after the prompting of rare and exceptional circumstance established on an elevated threshold of evident proof.

LA1-1

In our opinion as the duly elected representatives of the people of this affected county, we do not feel as though the arguments laid out by the filers (SPB) in this matter meet that threshold of proof. Their argument corners on the statement *"The comment period comes at a time when workers in seasonal industries such as fishing and tourism — the predominant industries in the region and which stand to lose the most from this project — are wholly occupied with their livelihoods"* is in danger of being very narcissistic at best.

Perhaps the majority of those who comprise SPB do in fact fall into these self delineated categories but to attempt to perpetrate that these two groups are the only ones who *"stand to lose the most from this project"* in this region makes this motion appear completely self-centered on two fronts. First it assumes that SPB is the majority opinion in the fishing and tourism industries which to my knowledge they have not been certified as in any many other than self proclamation. Second it discounts all the other industries and affected persons in this county as not having vested interested in this project. In fact the argument could be made that there are other vital industries in Washington County that have just as much to lose, if not more, should this project be delayed in a rural county with devastating unemployment numbers.

"The Sunrise County – where the sun first shines!"

LA1-1 See response to comment NA1-1.

COUNTY OF WASHINGTON  
P.O. Box 297, County Courthouse  
Machias, ME 04654  
(207) 255-3127  
Fax: (207) 255-3313  
e-mail: wcco@midmaine.com

LA1

Commissioners:

Christopher M. Gardner, Chairman  
John B. Crowley, Sr., Commissioner  
Kevin L. Shorey, Commissioner

County Manager:

Linda Pagels-Wentworth

Secretary:

Gail Popham

With all of this, as Commissioners we believe that the people of Washington County would be best served if all parties recognized that there are needs and concerns on all sides of this issue. The FERC process does an amicable job of allowing all parties to review, discuss and comment on these needs and concerns within its framework. Deviation from them should only come at the prompting of rare and special circumstances. In representing the people of this county, we do not feel that SPB's request qualifies as either rare or special circumstance and in the interest of the integrity of the FERC process we oppose the SPB motion's request for a 90 day extension.

LA1-1  
cont'd

We urge FERC to remain on schedule in their review as most would agree that this process has already encompassed tremendous amounts of the people's time, energy and resources.

Sincerely,

  
Christopher M. Gardner - Chairman  
Washington County Commissioners

"The Sunrise County - where the sun first shines!"

20090616-0126 FERC PDF (Unofficial) 06/12/2009

ORIGINAL

LA2

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

June 11, 2009

Dear Ms. Bose:

I am writing to rebut the Save Passamaquoddy Bay (SPB) Motion to FERC for extending the Downeast LNG project (Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001) DEIS comment period. My name is Tom Moholland and I am the 1<sup>st</sup> Selectman for the Town of Robbinston where the Downeast LNG Project is proposed. Downeast LNG held their first public meeting in July 2005. Our town voted on January 10, 2006 with a 3 to 1 margin in favor of the Downeast LNG project. We were told it would be a long time to get through the permit process of the Federal and State governments; this has definitely been true.

Under Section B of the above mentioned motion from SPB it states "Extending the comment period by ninety days does not place an additional burden on parties". I'm not sure what parties they are referring to, but the real people I know who are out of a job would be on unemployment 90 days longer (if they can get it that long) and the people working 2 or 3 jobs to keep their bills paid would probably like to work 1 full time job with benefits sooner rather than later. Maybe some of the "parties" they speak of should learn to multi-task as well as the people who work more than 1 job, enjoy their families, and read sections of the (DEIS) Draft Environmental Impact Statement which are of interest to them and also attend meetings when needed.

Last summer our town experienced a fire that burned over 130 acres of forest land. We did not have insurance to cover the costs incurred over the week long period that it took to get the fire under control. The total cost to our town is around \$90,000. This has put an additional burden on the town's already stretched budget between school expenditures and road maintenance issues. A project like Downeast LNG would greatly help our town, while at the same time seemingly cause little interruption to our normal lives.

I firmly believe that the SPB Motion is a stall tactic with very little factual data to substantiate their claims. Frankly, their mistakes in the Motion are not surprising – neither SPB or Yellowwood has ever contacted the Town for factual information. On behalf of my town, I strongly urge you not to accept the above motion to extend the comment period for Downeast LNG's (DEIS) Draft Environmental Impact Statement.

LA2-1

Best Regards,



Tom Moholland 935 Ridge Road Robbinston, ME 04671

LA2-1 See response to comment NA1-1.



20090622-0115 FERC PDF (Unofficial) 06/18/2009

LA3  
ORIGINAL

FILED  
SECRETARY OF THE  
COMMISSION

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

June 18, 2009  
2009 JUN 18 P 3:05  
FEDERAL ENERGY  
REGULATORY COMMISSION

Dear Ms. Bose:

I am writing to rebut the Save Passamaquoddy Bay (SPB) Motion to FERC for extending the Downeast LNG project (Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001) DEIS comment period.

LA3-1

My name is Jon Stanhope and I am the 2nd Selectman for the Town of Robbinston where the Downeast LNG Project is proposed. When Downeast LNG announced their intent to build this project in July 2005, the Board of Selectmen for the Town of Robbinston reached out to the community for their input, committees were established for areas such as, but not limited to, Health & Safety, Economic Impacts, Security, Waterway Transit and Environmental Impacts. The purpose of these committees was for participants to gain knowledge and understanding of LNG facilities, the FERC process and the Downeast LNG project as it related to our town and area.

We opened these meetings up to anyone - resident or non resident and over 110 people participated in this process. The meetings continued bi-monthly for a six-month period under the town's direction. The committees broke off from there and still meet to this day to discuss developments related to this project.

The interesting thing about these meetings is that no members of SPB ever participated, despite direct phone calls by the Chairman of the Board of Selectmen personally encouraging them to attend. During this time, it was discovered members of SPB were told by their leadership not to attend the Town meetings. In fact, they used the Town's posted schedule for the meetings, to hold their own at the same time, just to ensure there was no dissention among their ranks. An offer was also extended by Downeast LNG to several members of SPB to tour the Cove Point facility, this offer was also declined by the SPB organization.

Tactics like the above are very similar in practice to the current SPB extension request. Had they participated in the town sponsored meetings and the Cove Point tour they might be able to interpret the Draft EIS in a more efficient manner, like the people who did participate, but this is of no fault of the developer or the Town, the two entities that would be penalized the most from the granting of the SPB 90-day extension request.

A 90-day extension can adversely impact several things. A 90-day extension represents 90 days of additional administrative costs as it relates to the permitting process, as well as 90 days on the project completion side of lost production revenues, which I would assume is the equivalent of several million dollars. A 90-day delay may also add additional construction costs and delays associated with a Maine winter and the mud season that follows. If my understanding of the current project timeline is correct, 90

LA3-1 See response to comment NA1-1.

20090622-0115 FERC PDF (Unofficial) 06/18/2009

LA3

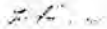
days represents a start date of September versus a start date of May, costing the developer the most productive and cost efficient construction months, thus adding additional costs and time before the facility is actually producing a product for market. For the Town of Robbinston, extending 90 days is an extension on the completion of the project as well. Our tax assessment year runs April 1 to March 31 of each year, a 90-day extension could represent a loss of a complete year's taxation of the facility if it were completed after April 1<sup>st</sup> of any given year. For the residents and potential workers, it represents 90 more days of being underemployed in jobs that barely pay minimum wage with no benefits.

From the onset of the project review process, it has been obvious to anyone familiar with SPB that they that they are unreasonable when it comes to their position on LNG development. What harm could have possibly come out of allowing members to attend the Town sponsored educational meetings. These meetings weren't just educational they were also instrumental in the Town defining what limitation were to be imposed relative to the environment and financial loadings. Gaining knowledge, whether for or against, only leads to a greater understanding of the issues involved and having a voice in the process would have enabled them to see that their concerns were addressed and mitigated properly already. Providing input to the planning and evaluation process sponsored by the Town would have also meant that SPB was proactively involved in the process – just as the FERC program is designed to accomplish. Why should FERC or anyone else tolerate an activist group that chooses to sit out of the process versus being contributory to the process – and let them come back years later and say they need more time to provide 'input'.

Those who refuse to participate are left behind and this appears to be the case with this motion to extend the comment period. But the blame for this rests solely on the shoulders of the organization requesting the delay. I don't believe at this point that the Town, County, State, Country or the developer should be held accountable for their reluctance to participate in an educational and planning process.

I strongly urge you not to accept the above motion to extend the comment period for Downeast LNG's (DEIS) Draft Environmental Impact Statement.

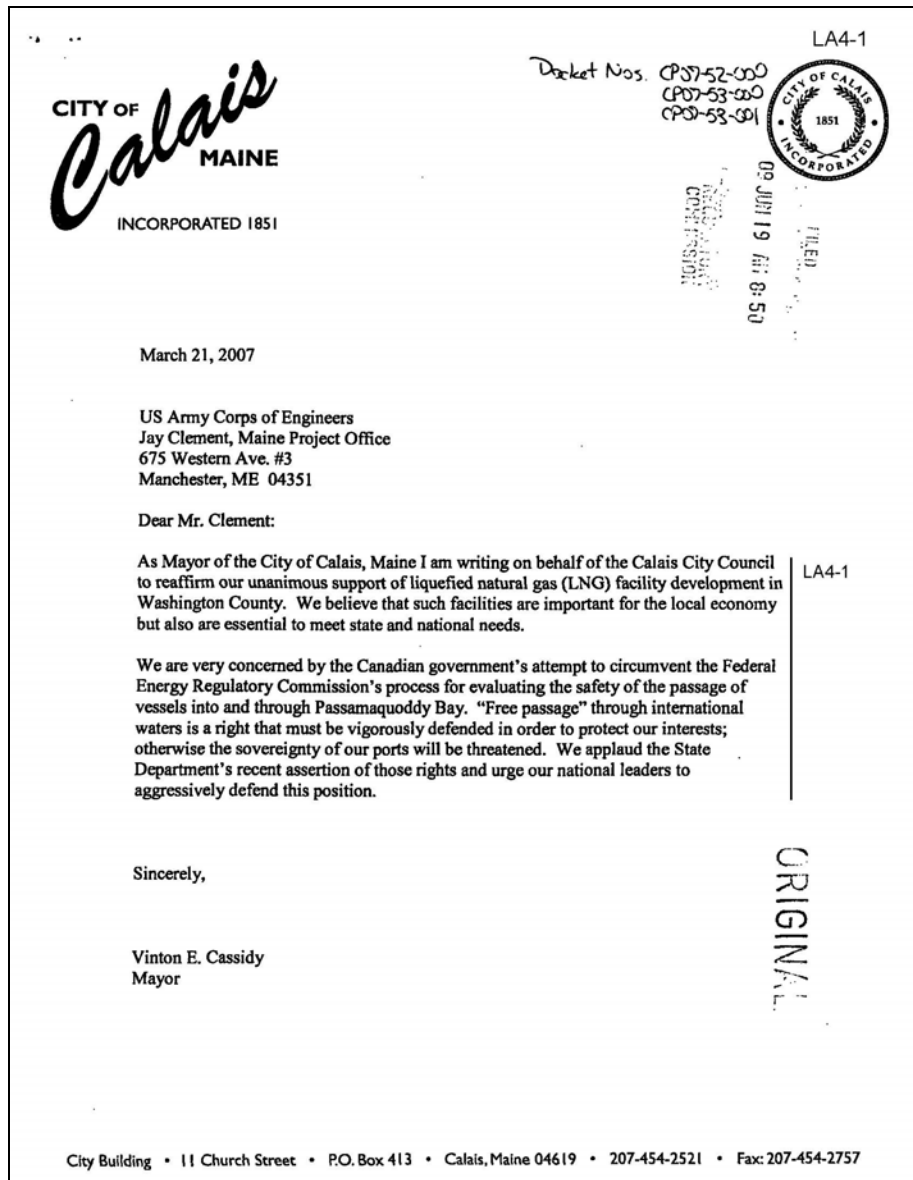
Best Regards,



Jon Stanhope

218 Ridge Road

Robbinston, ME 04671



LA4-1 Comment noted.

LA4-1



**RESOLUTION OF CITY OF CALAIS  
IN SUPPORT OF LOCATION OF LNG**



INCORPORATED 1851

A meeting of Calais City Council was held on August 25, 2005 at 6 PM in City Council Chambers located in Calais, Maine. The meeting was called to order by Mayor Vinton E. Cassidy. A quorum of the members of the City Council were present and participated in the meeting.

Discussion ensued concerning the potential development of a Liquefied Natural Gas (LNG) terminal within the city limits of Calais and the economic benefits associated with such potential development.

On motion duly made and seconded it was RESOLVED that it is the position of the Calais City Council to support the potential development of a LNG terminal within Washington County. It was further RESOLVED that the Calais City Council would welcome and support the potential development of a LNG terminal within the city limits of Calais and will endeavor to provide its support by all necessary and available means to actively pursue this potential development.

The Calais City Council

*Vinton E. Cassidy*  
Vinton E. Cassidy, Mayor

*Alan Dwellley*  
Alan Dwellley

*William DelMonaco Jr.*  
William DelMonaco

*Marianne Moore*  
Marianne Moore

*E. Denis Lovely*  
E. Denis Lovely

*Christopher Bernardini*  
Christopher Bernardini

*Joyce Maher*  
Joyce Maher

ORIGINAL

LA5

**Town of Perry**

P.O. Box 430, Perry, Maine 04667

June 22, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Docket # CP07-52-000, CP07-53-000, CP07-53-001

To Whom It May Concern:

Please be advised that the Selectmen for the Town of Perry would like to express our support for the granting of the permits for the proposed Downeast LNG Project to be located in the Town of Robbinston, Maine.

We are also opposed to further delays as proposed by Nulankeyutomonen Nkihtahkomikumon and Save Passamaquoddy Bay in this petition.

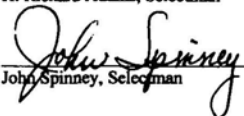
LA5-1

Thank you for the opportunity to express our support and concern for further delays in this process.

Sincerely,

  
David B. Turner, Selectman

  
H. Richard Adams, Selectman

  
John Spinney, Selectman

LA5-1 See response to Comment NA-1.



LA6

**The Sells Law Firm, LLC**

Scott L. Sells  
[ssls@sellslawfirm.com](mailto:ssls@sellslawfirm.com)

*One City Center, 8<sup>th</sup> Floor  
Portland, Maine 04101*

*Tele: (207) 774-7691  
Fax: (207) 774-7810*

July 6, 2009

**VIA ELECTRONIC FILING.**

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.,  
Washington, DC 20426

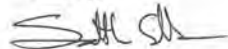
Re: Downeast LNG, Inc. Docket No. CP07-52-000 and Downeast Pipeline, LLC  
Docket Nos. CP07-53-000; CP07-53-001.  
**City of Eastport's Comments to the Draft Environmental Protection Statement for  
the Proposed Downeast LNG Project**

Dear Ms. Bose:

The City of Eastport, Maine ("Eastport") hereby submits for electronic filing in the above captioned docket the **City of Eastport's Comments to the Draft Environmental Protection Statement for the Proposed Downeast LNG Project** (the "City's Comments") related to the Draft Environmental Impact Statement recently filed in the above referenced dockets. The City's Comments are attached to this cover correspondence and are being filed electronically as public information at the FERC on July, 6, 2009 and to each party on the FERC service lists in the above referenced dockets.

Thank you for your assistance in this matter. If you have any questions regarding this filing, please feel free to contact me at 207-774-7691.

Sincerely,



Scott L. Sells  
Attorney for the City of Eastport

Enclosure

**The Sells Law Firm, LLC**

Scott L. Sells, Esq.  
[ssls@sellslawfirm.com](mailto:ssls@sellslawfirm.com)

One City Center, 8<sup>th</sup> Floor  
Portland, Maine 04101

Tele: (207) 774-7691  
Fax: (207) 774-7810

July 21, 2009

**VIA ELECTRONIC FILING.**

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.,  
Washington, DC 20426

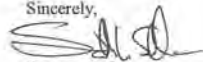
Re: Downeast LNG, Inc. Docket No. CP07-52-000 and Downeast Pipeline, LLC  
Docket Nos. CP07-53-000; CP07-53-001.  
**Notice of City of Eastport's Withdrawal of Comments to the Draft Environmental  
Impact Statement for the Proposed Downeast LNG Project.**

Dear Ms. Bose:

The City of Eastport, Maine ("Eastport") is by this "Notice of City of Eastport's Withdrawal of Comments to the Draft Environmental Impact Statement for the Proposed Downeast LNG Project" ("Eastport's Comment Withdrawal") notifying the Federal Energy Regulatory Commission ("FERC") that it is withdrawing its comments submitted to the FERC electronically on July 6<sup>th</sup>, 2009 and titled "City of Eastport's Comments to the Draft Environmental Impact Statement for the Proposed Downeast LNG Project" ("Eastport's Draft EIS Comments"). Eastport's Draft EIS Comments were submitted in connection with the Draft Environmental Impact Statement recently filed by Downeast LNG, Inc. and Downeast Pipeline, LLC in the above captioned dockets. Eastport respectfully requests that the FERC withdraw Eastport's Draft EIS Comments from the public record in all of the above captioned dockets (Downeast LNG, Inc. Docket No. CP07-52-000 and Downeast Pipeline, LLC Docket Nos. CP07-53-000 and CP07-53-001). Each party on the FERC service lists in the above referenced dockets is being notified of Eastport's Comment Withdrawal.

Thank you in advance for your assistance in this matter. If you have any questions regarding this filing, please feel free to contact me at 207-774-7691.

Sincerely,



Scott L. Sells  
Attorney for the City of Eastport

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LA7

July 5, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington, D.C. 20426

Re: Downeast LNG, Inc. Docket No. CP07-52-000  
CP07-53-000  
CP07-53-001

Dear Ms. Bose:

A recent filing by Messrs. Turner, Adams and Spinney, because they signed as Selectmen of the Board of Perry, ME, may have given the Federal Regulatory Commission the erroneous impression that their opinion as individuals was reflective of that of the community.

It should be noted that the Town of Perry is governed as a municipality. The legislative body that determines town policies is the town meeting. The duties of the selectmen are directly determined by the actions of that body. Although the citizens of the Town of Perry have been divided concerning the presence of LNG in or near the community, the only Town vote directly concerned with LNG was to reject the establishment of an LNG terminal at Gleason's Cove in Perry by a vote of 279-214.

A more recent reflection of the community sentiment is reflected in a recent survey, performed as part of the development of an updated Comprehensive Plan for the Towns of Perry and Pembroke. The survey showed that well over 60% of the respondents were opposed to liquefied natural gas facilities. Copies of draft summaries of those surveys are attached. The statistics held true for both communities.

There has been no vote or survey of the Town residents concerning the Downeast LNG facility for Robbinston, which is directly adjacent to Perry. And in our home rule form of government, it is incumbent upon the Selectmen to obtain the consent of the Town before committing the Town in this manner.

Be assured that Messrs. Turner, Adams and Spinney speak as individuals and are not representative of or for the Town of Perry.

Sincerely,

Jeanne A. Guisinger  
Selectwoman, 2005-2008  
815 Shore Road  
Perry, Maine 04667  
207-853-4877

LA7-1 We recognize that the citizens of the Town of Perry have differing views on the Downeast LNG Project. The NEPA process is a public process, affording interested citizens, organizations, and regulatory agencies the opportunity to submit comments on the project being evaluated in the NEPA document. All such submittals have been, and continue to be, available for review on the FERC eLibrary. The docket is constantly expanding as new information becomes available. We encourage informed and candid comment on the contents of the public docket.

## L. PERRY SURVEY RESULTS

A combined survey that was mailed to all residents and non-residents of Perry and Pembroke in July-August of 2007 is reproduced in Appendix A. There were 581 surveys mailed to all resident households and non-resident property owners. Surveys were mailed back to the WCCOG office, or dropped off at Johnsons Store in Pembroke or at the Perry Farmers Union in Perry. A total of 132 surveys were returned, a 23% response rate. The survey included an incentive for the chance to win \$100 gift certificate at a local vendor of the winner's choice for all completely filled out survey forms.

Survey Respondents by Town



There were many responses to the four open ended questions at the end of the survey as well as other written comments throughout the survey. All of the written responses are reproduced in Appendix A. Summaries of some of the written comments are noted with the charted data here and throughout the document as the issues they address are raised. The raw data is available at the town office and graphical summaries of the responses are provided here.

### SURVEY RESULTS

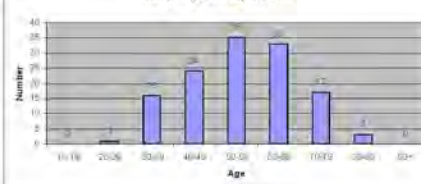
#### A. General

The cross section of survey respondents reflects a greater proportion of men than exist in the general population and is somewhat more heavily weighted to the opinions of those over 30 years of age.

Perry - Gender of Respondents

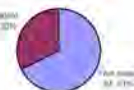


Perry - Age of Respondents



Respondents have lived in Perry all or most of their lives with an average length of residency of 26.2 years for year round residents and 19.5 years for seasonal residents.

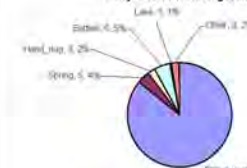
Perry - Residency of Respondents



L-1

The majority of respondents described their water source as a drilled well. Satisfaction with water is generally very good.

Perry - Source of Drinking Water



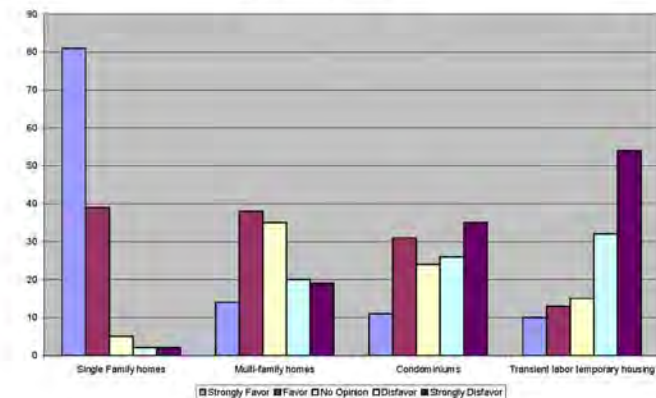
Perry - Satisfaction with drinking water



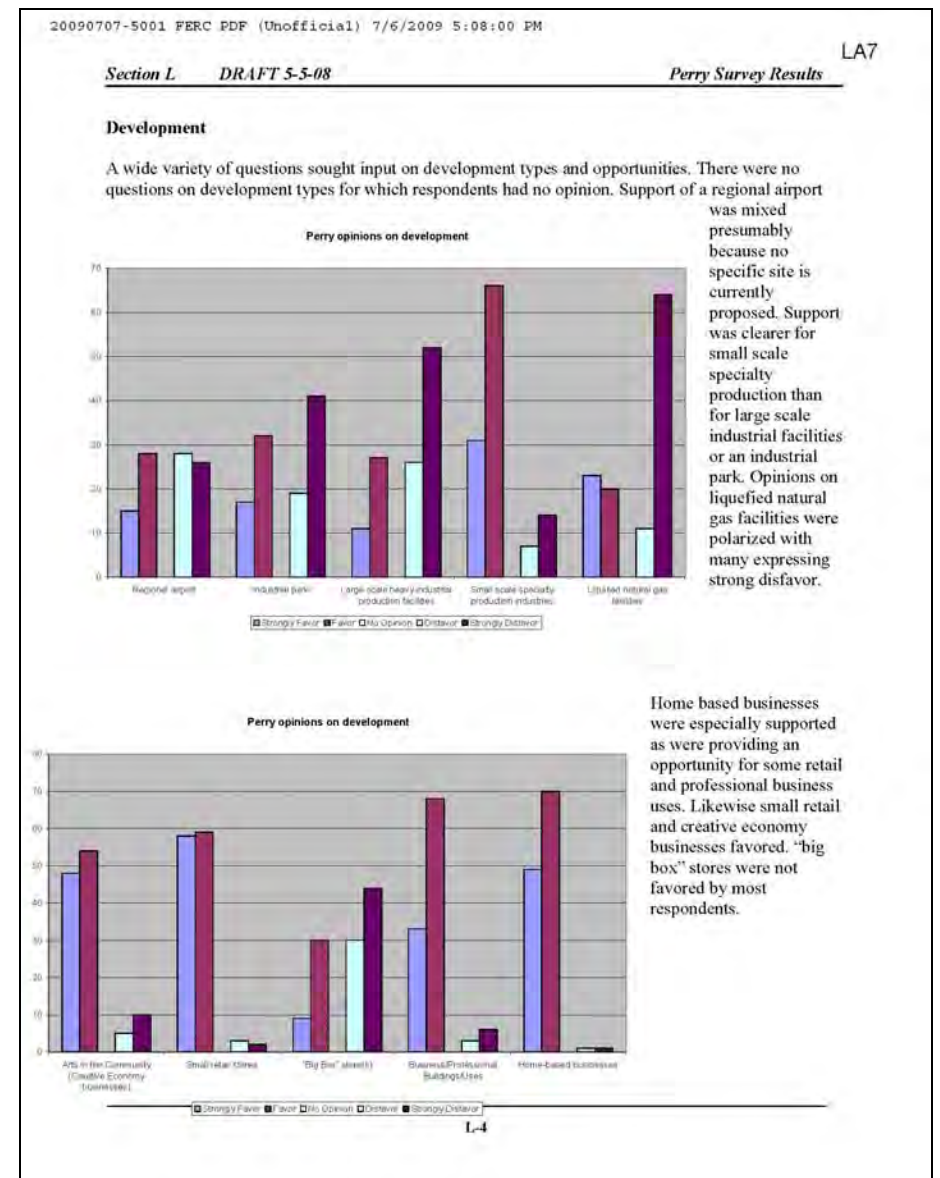
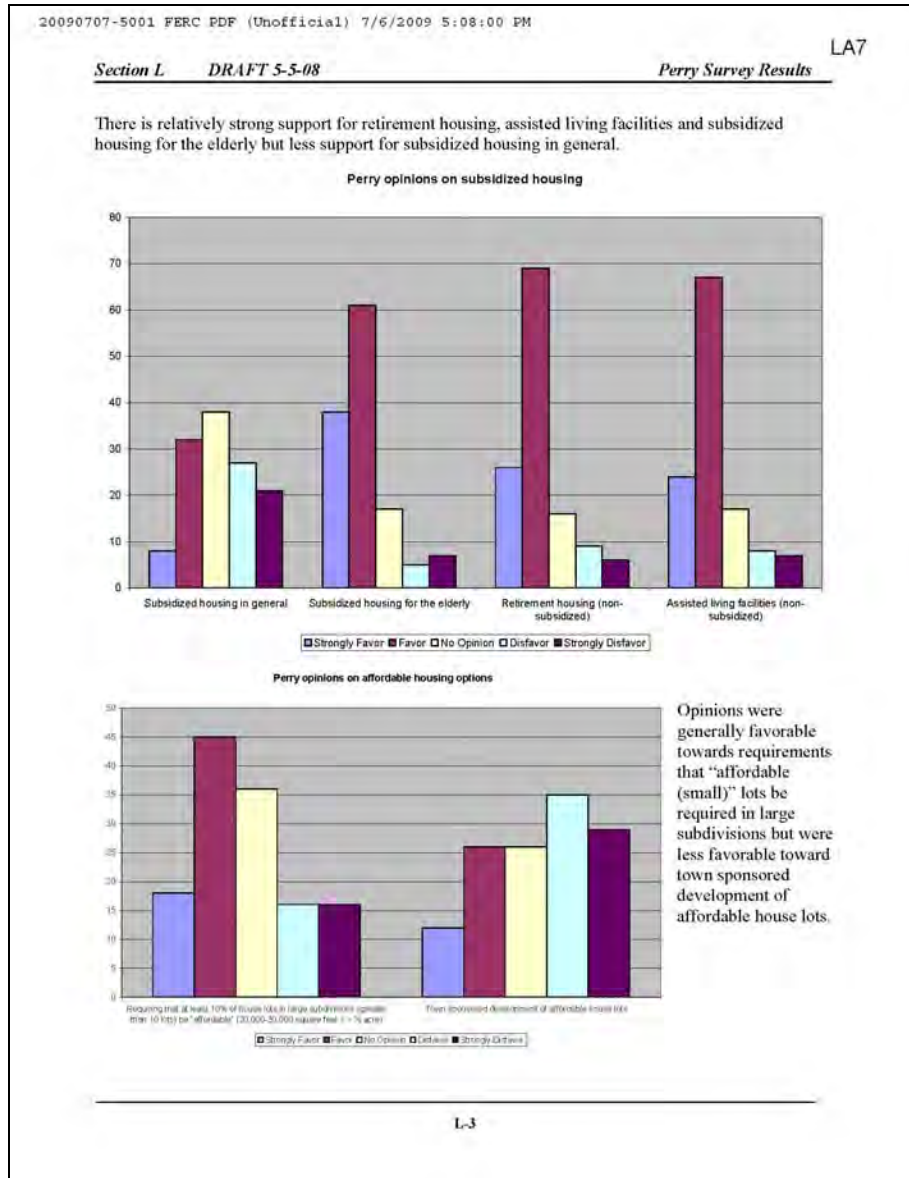
#### B. Housing, Development and Preservation

As in many Maine communities, Perry respondents strongly support single-family housing with less support for multi-family units or condominiums. Respondents also disfavor transient labor temporary housing.

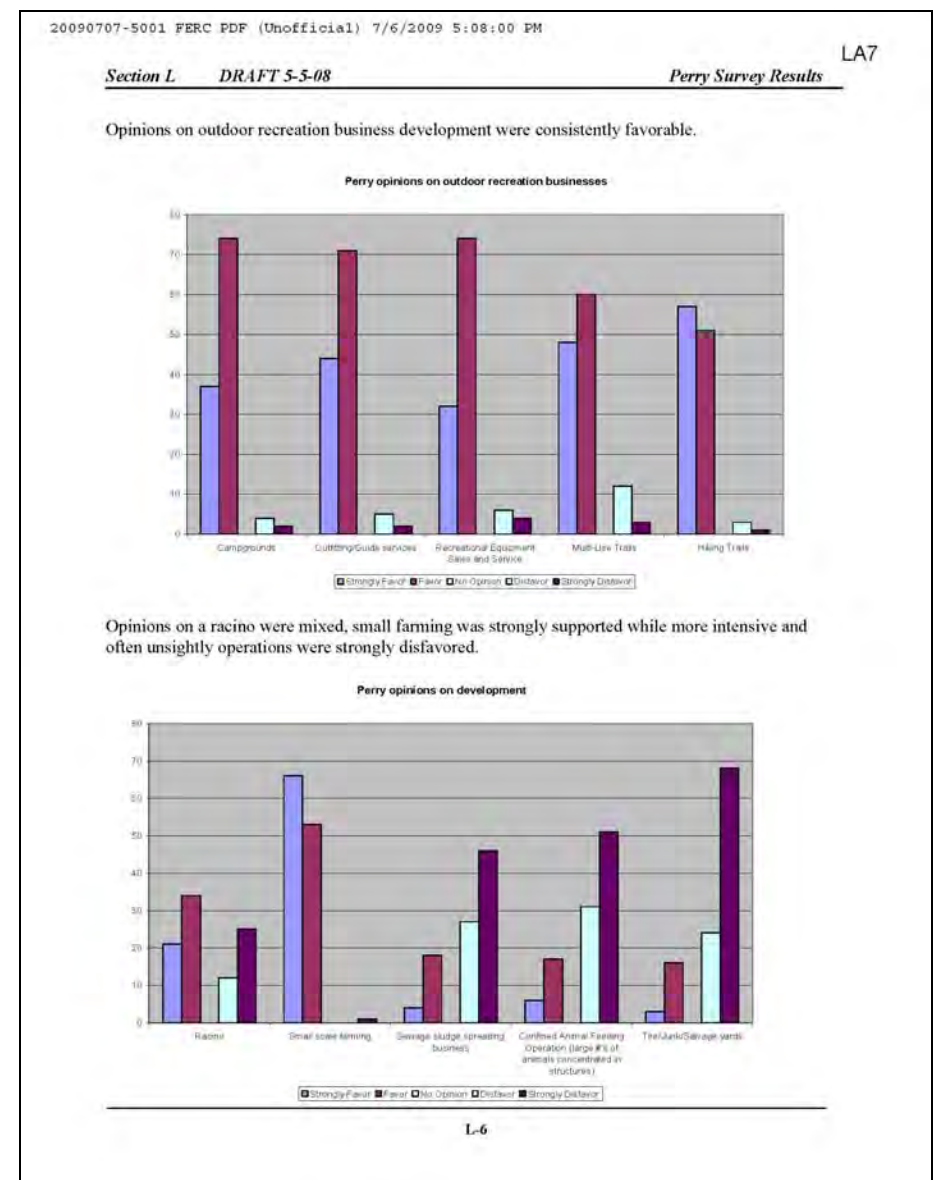
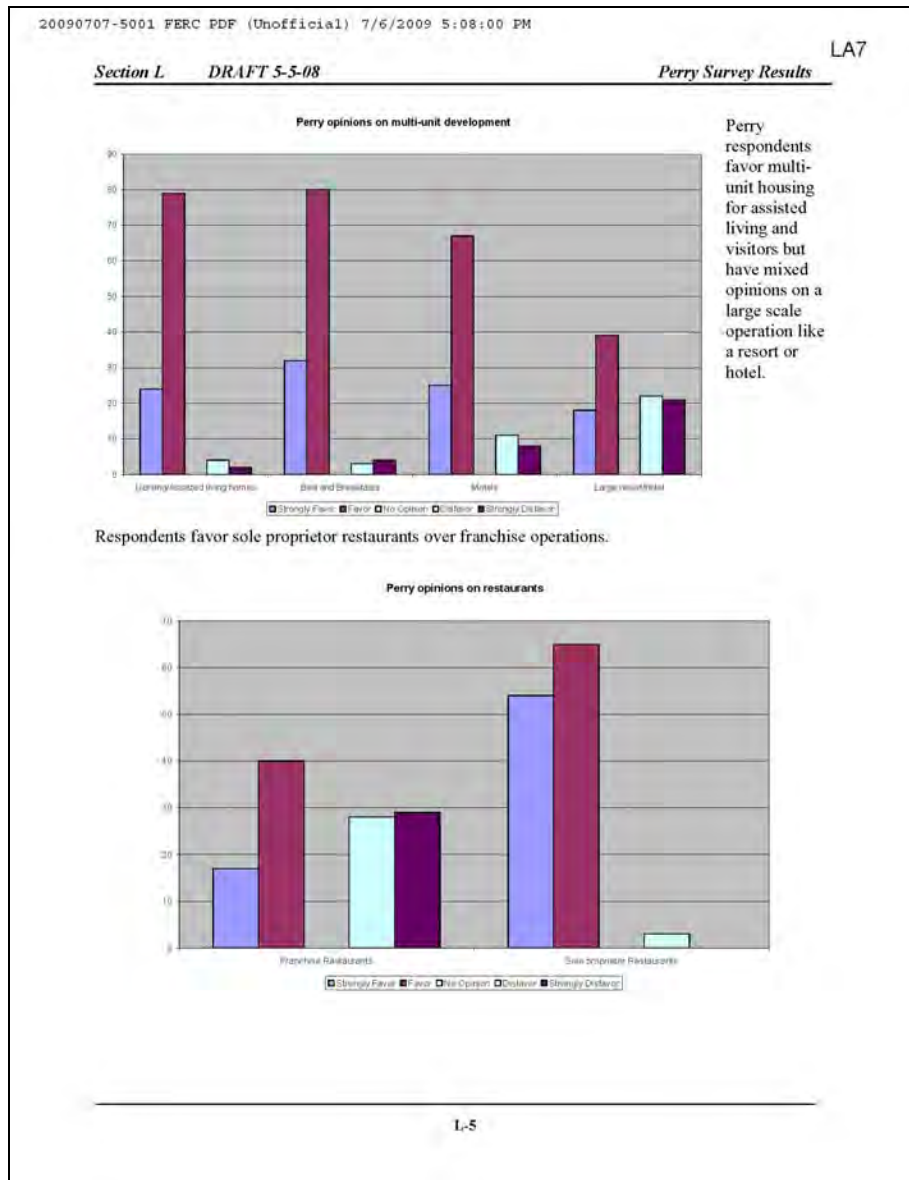
Perry opinions on type of housing

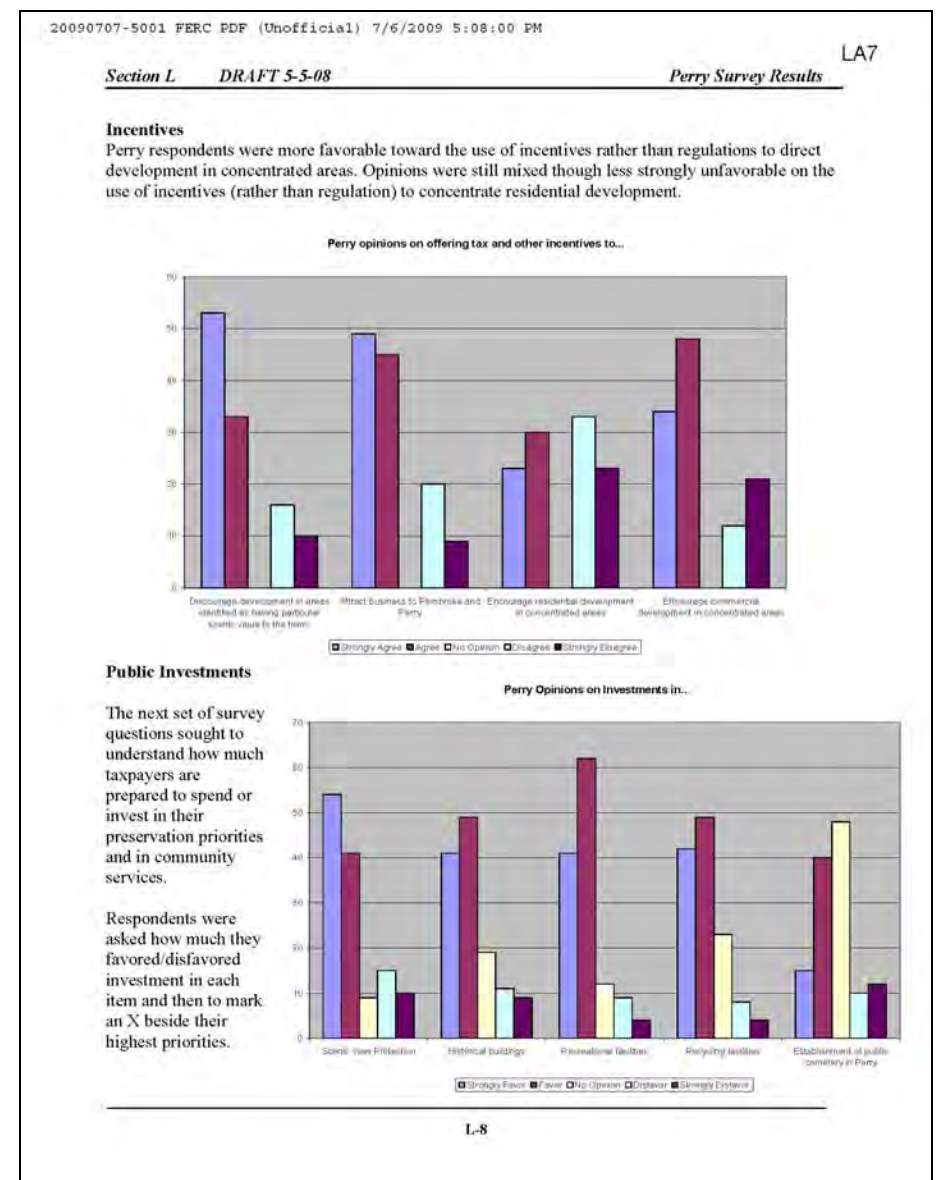
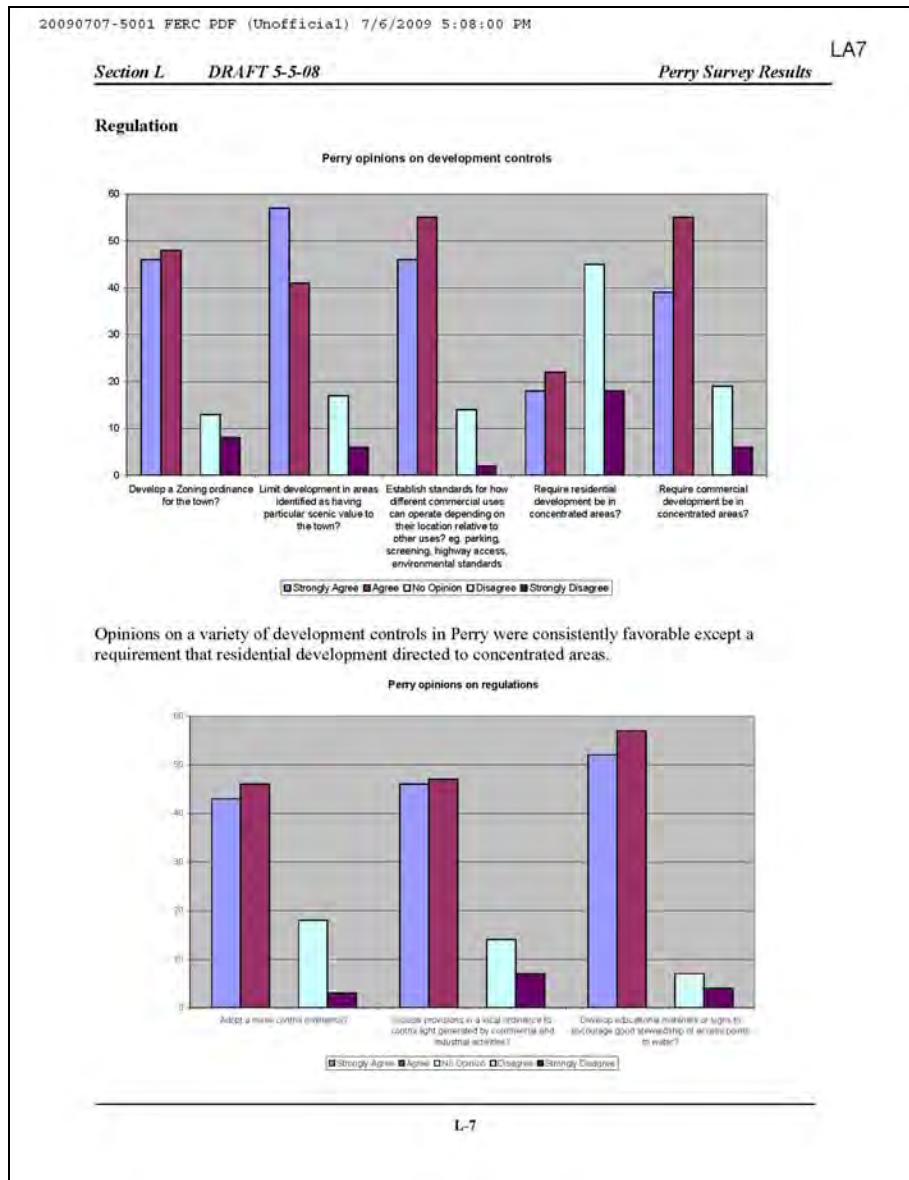


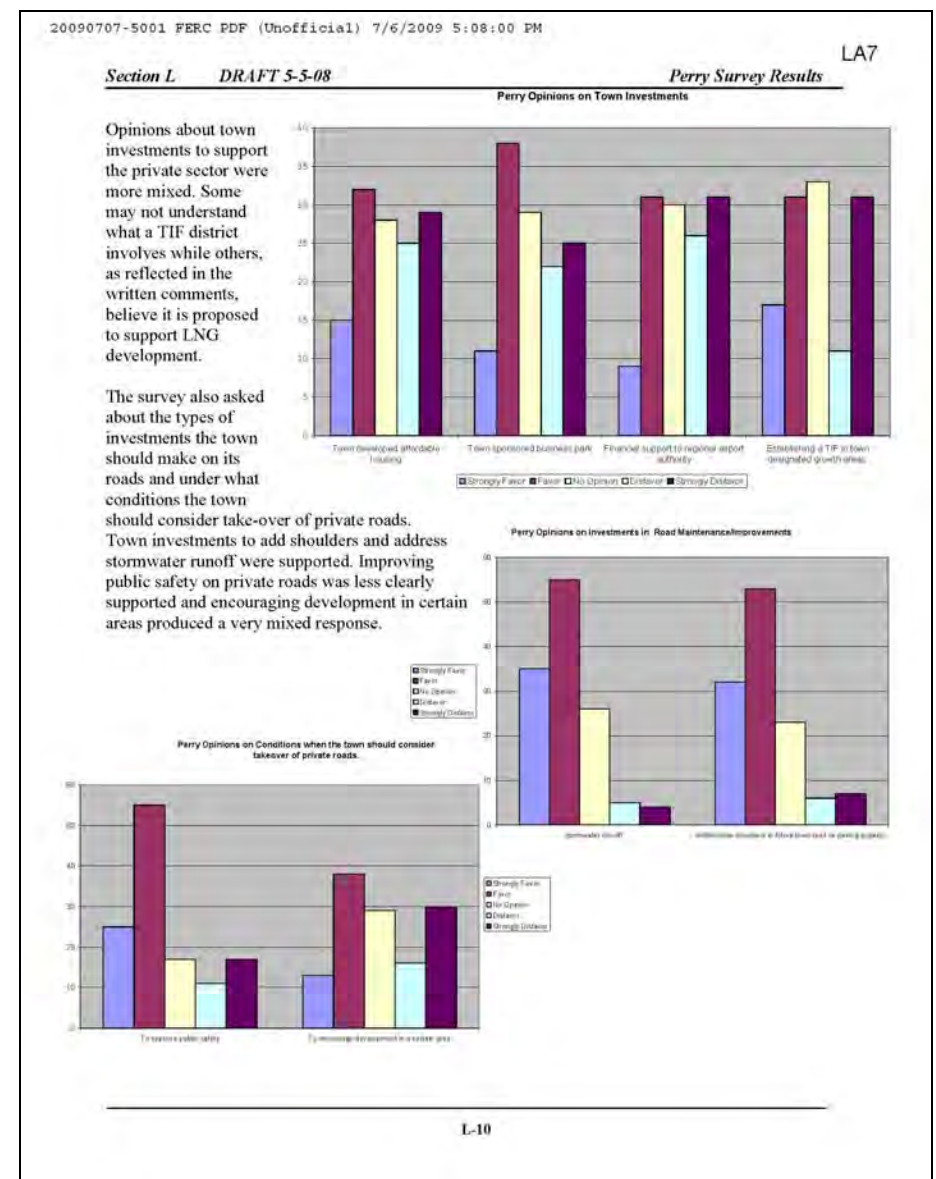
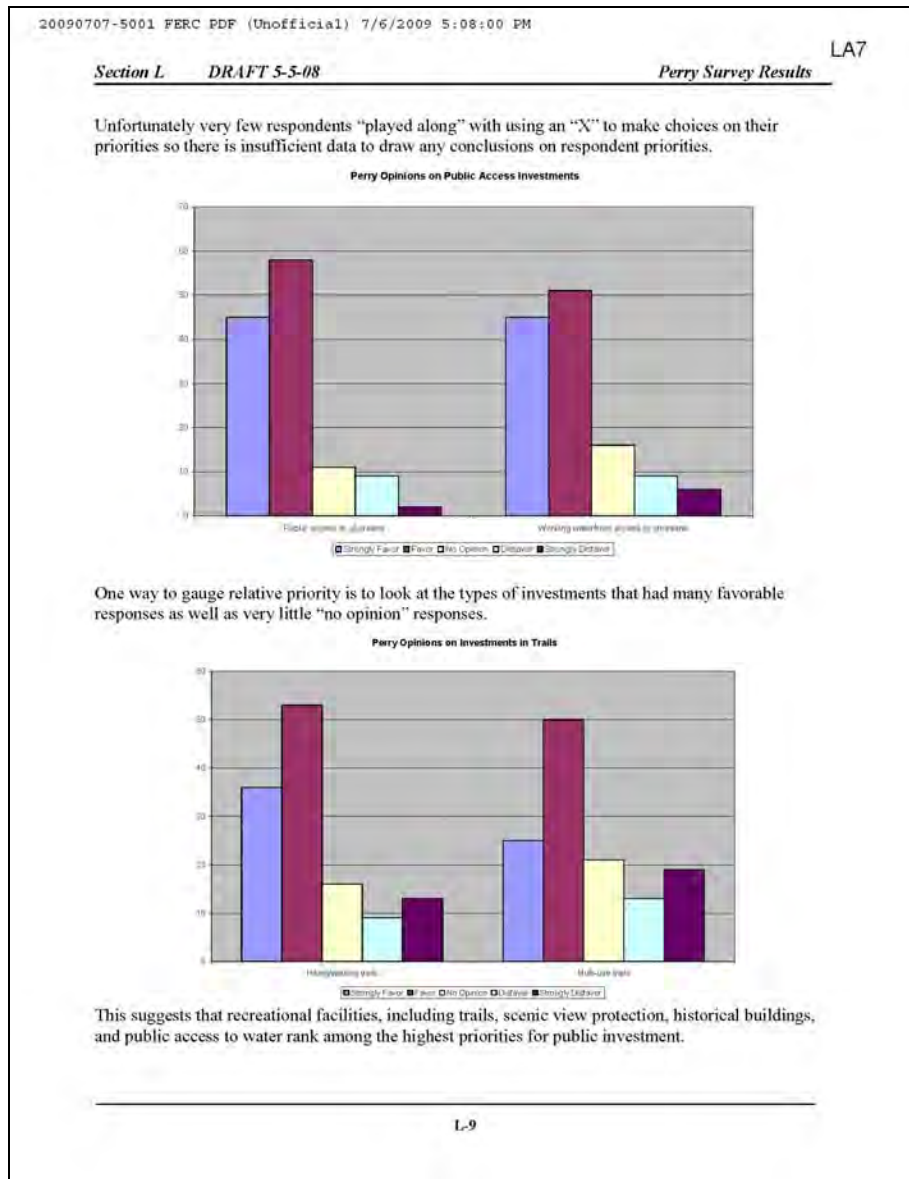
L-2



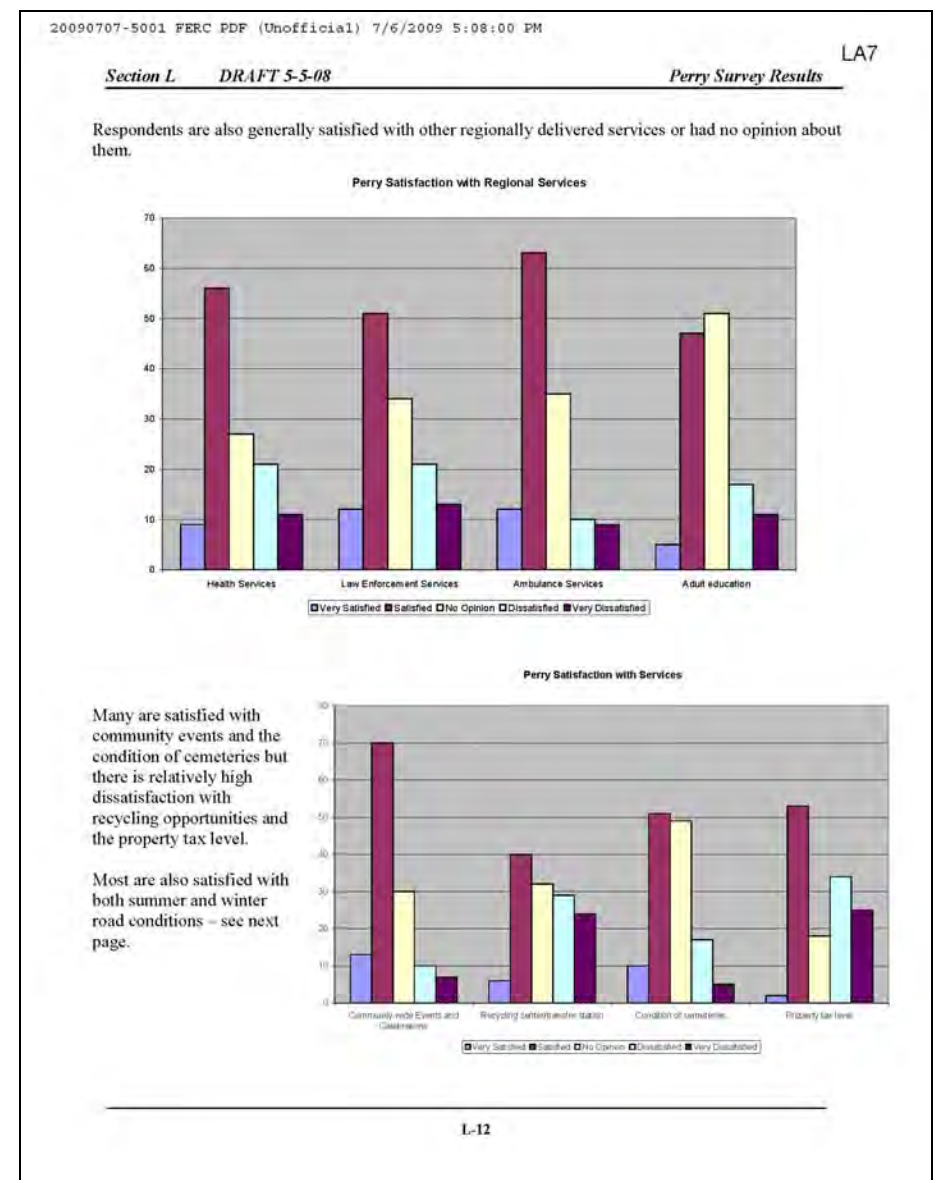
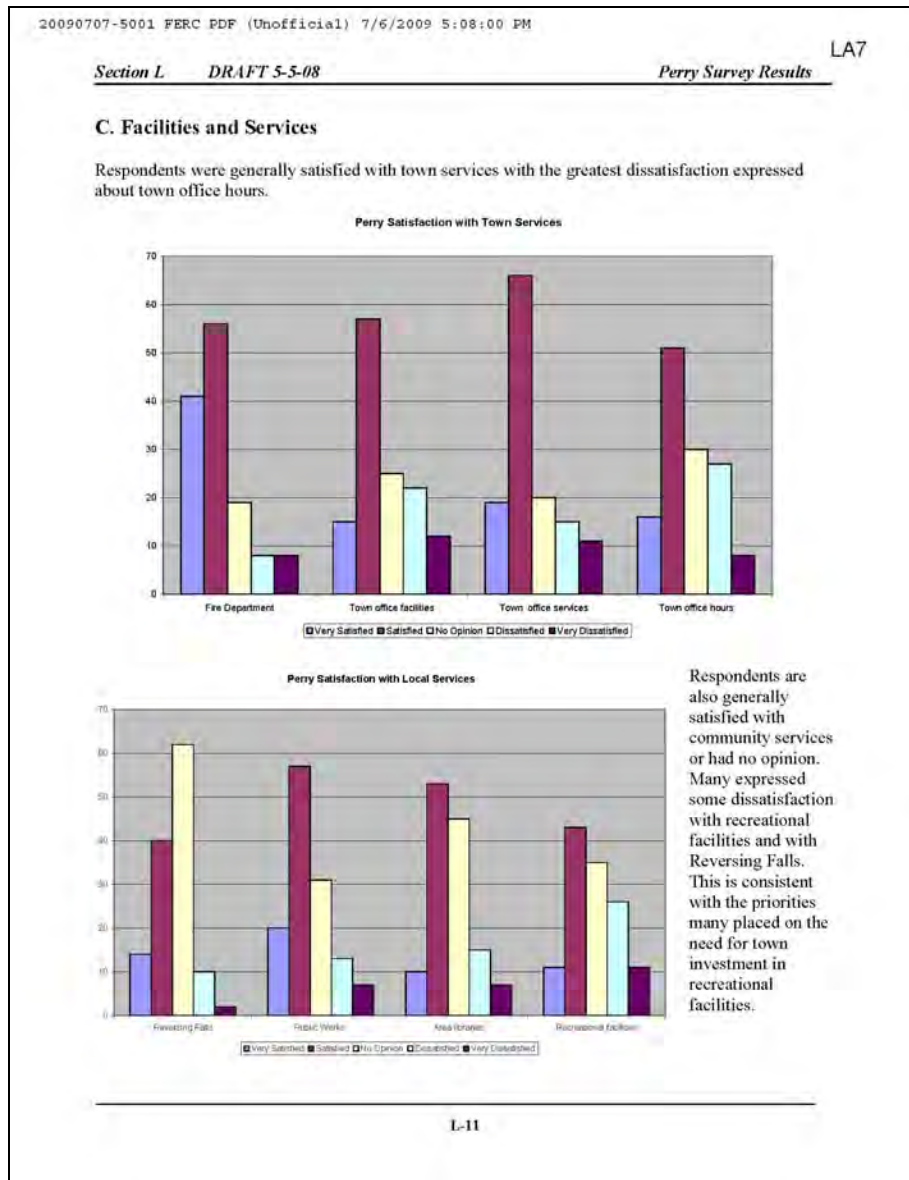


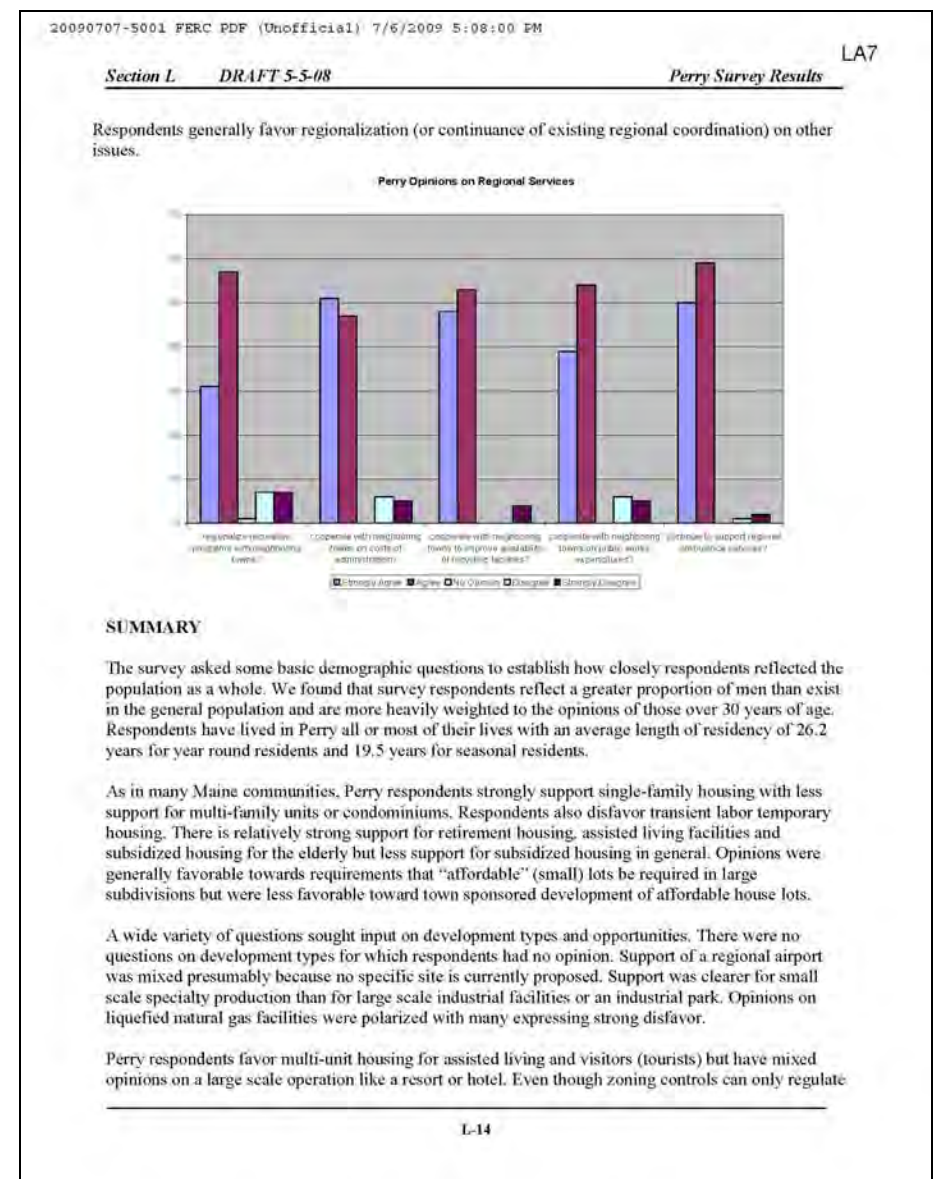
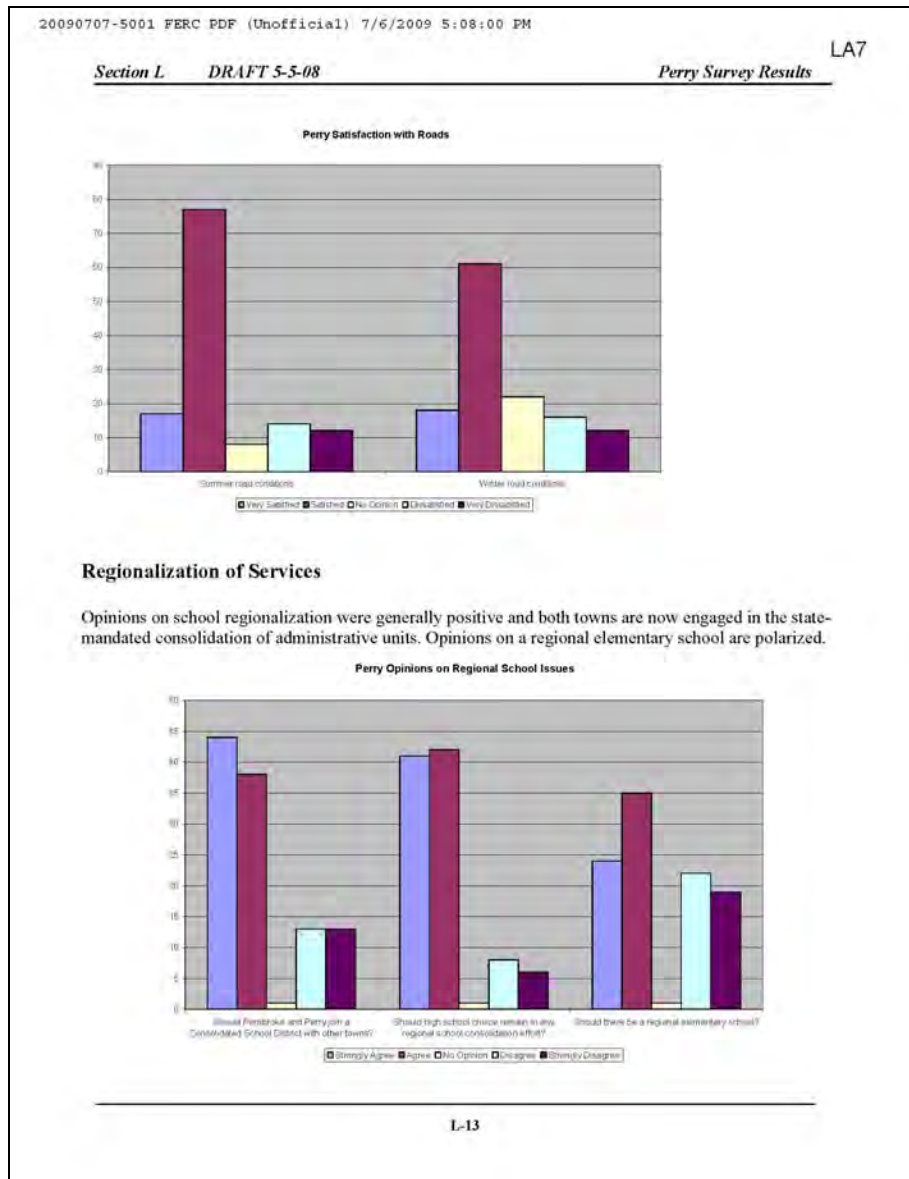














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LA7

*Section L DRAFT 5-5-08*

*Perry Survey Results*

use (and not ownership) of development proposals, respondents favor sole proprietor restaurants over franchise operations.

Opinions on outdoor recreation business development were consistently favorable. Opinions on a racino were mixed, small farming was strongly supported while more intensive and often unsightly operations were strongly disfavored.

Opinions on a variety of development controls (develop a zoning ordinance, limiting development in areas having particular scenic significance, establishing standards for commercial development depending on its location relative to other uses) in Perry were consistently favorable except a requirement that residential development directed to concentrated areas. Perry respondents were more favorable toward the use of incentives rather than regulations to direct development in concentrated areas. Opinions were still mixed though less strongly unfavorable on the use of incentives (rather than regulation) to concentrate residential development.

The next set of survey questions sought to understand how much taxpayers are prepared to spend or invest in their preservation priorities and in community services. Respondents were asked how much they favored/disfavored investment in each item and then to mark an X beside their highest priorities. Perhaps because of the survey design, very few respondents made choices on their priorities so there is insufficient data to draw any conclusions on respondent priorities.

An alternative way to gauge relative priority is to examine those types of investments with many favorable responses and very little "no opinion" responses. This suggests that recreational facilities, including trails, scenic view protection, historical buildings, and public access to water rank among the highest priorities for public investment in Perry. Opinions about town investments to support the private sector were more mixed. Some may not understand what a TIF district involves while others, as reflected in the written comments, believe it is proposed to support LNG development.

The survey also asked about the types of investments the town should make on its roads and under what conditions the town should consider take-over of private roads. Town investments to add shoulders and address stormwater runoff were supported. Improving public safety on private roads was less clearly supported and encouraging development in certain areas produced a very mixed response.

Respondents were generally satisfied with town services with the greatest dissatisfaction expressed about town office hours. Respondents are also generally satisfied with community services or had no opinion. Many expressed some dissatisfaction with recreational facilities and with Reversing Falls. This is consistent with the priorities many placed on the need for town investment in recreational facilities. Respondents are also generally satisfied with other regionally delivered services or had no opinion about them.

Many are satisfied with community events and the condition of cemeteries but there is relatively high dissatisfaction with recycling opportunities and the property tax level.

Most are also satisfied with both summer and winter road conditions. Opinions on school regionalization were generally positive and both towns are now engaged in the state-mandated consolidation of administrative units. Opinions on a regional elementary school are polarized while

L-15

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LA7

Section L      DRAFT 5-5-08

Perry Survey Results

respondents generally favor regionalization (or continuance of existing regional coordination) on other issues.

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L-16

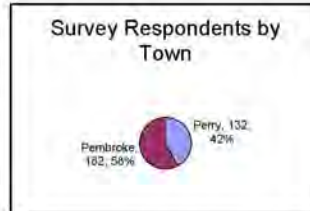
Section L DRAFT 5-5-08

Pembroke Survey Results

LA7

L. PEMBROKE SURVEY RESULTS

A combined survey that was mailed to all residents and non-residents of Perry and Pembroke in July-August of 2007 is reproduced in Appendix A. There were 714 surveys mailed to all resident households and non-resident property owners. Surveys were mailed back to the WCCOG office, or dropped off at Johnsons Store in Pembroke or at the Perry Farmers Union in Perry. A total of 182 surveys were returned, a 25% response rate. The survey included an incentive for the chance to win \$100 gift certificate at a local vendor of the winner's choice for all completely filled out survey forms.

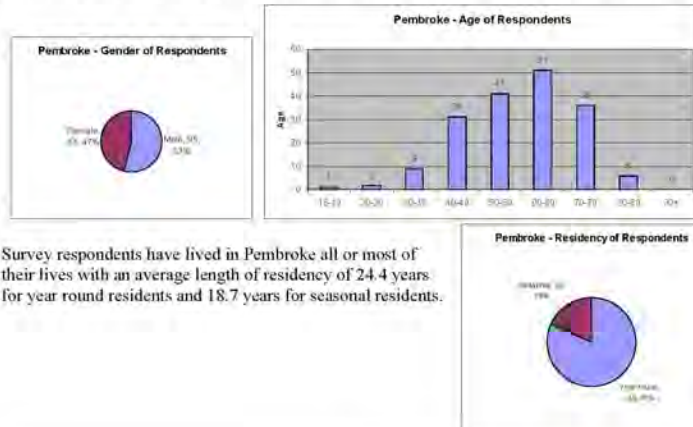


There were many responses to the four open ended questions at the end of the survey as well as other written comments throughout the survey. All of the written responses are reproduced in Appendix A. Summaries of some of the written comments are noted with the charted data here and throughout the document as the issues they address are raised. The raw data is available at the town office and graphical summaries of the responses are provided here.

SURVEY RESULTS

A. General

The cross section of survey respondents reflects a greater proportion of men than exist in the general population and is somewhat more heavily weighted to the opinions of those over 30 years of age.



Survey respondents have lived in Pembroke all or most of their lives with an average length of residency of 24.4 years for year round residents and 18.7 years for seasonal residents.

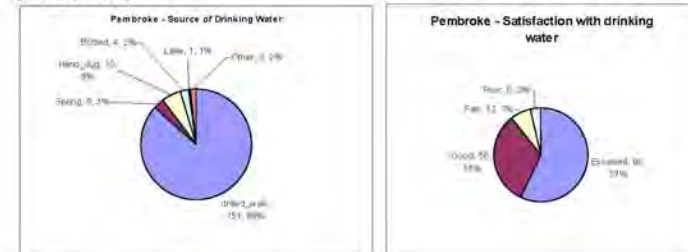
L-1

Section L DRAFT 5-5-08

Pembroke Survey Results

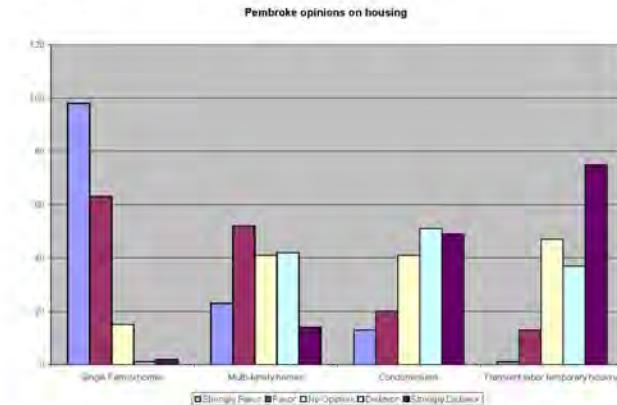
LA7

The majority of respondents described their water source as a drilled well. Satisfaction with water is generally very good.



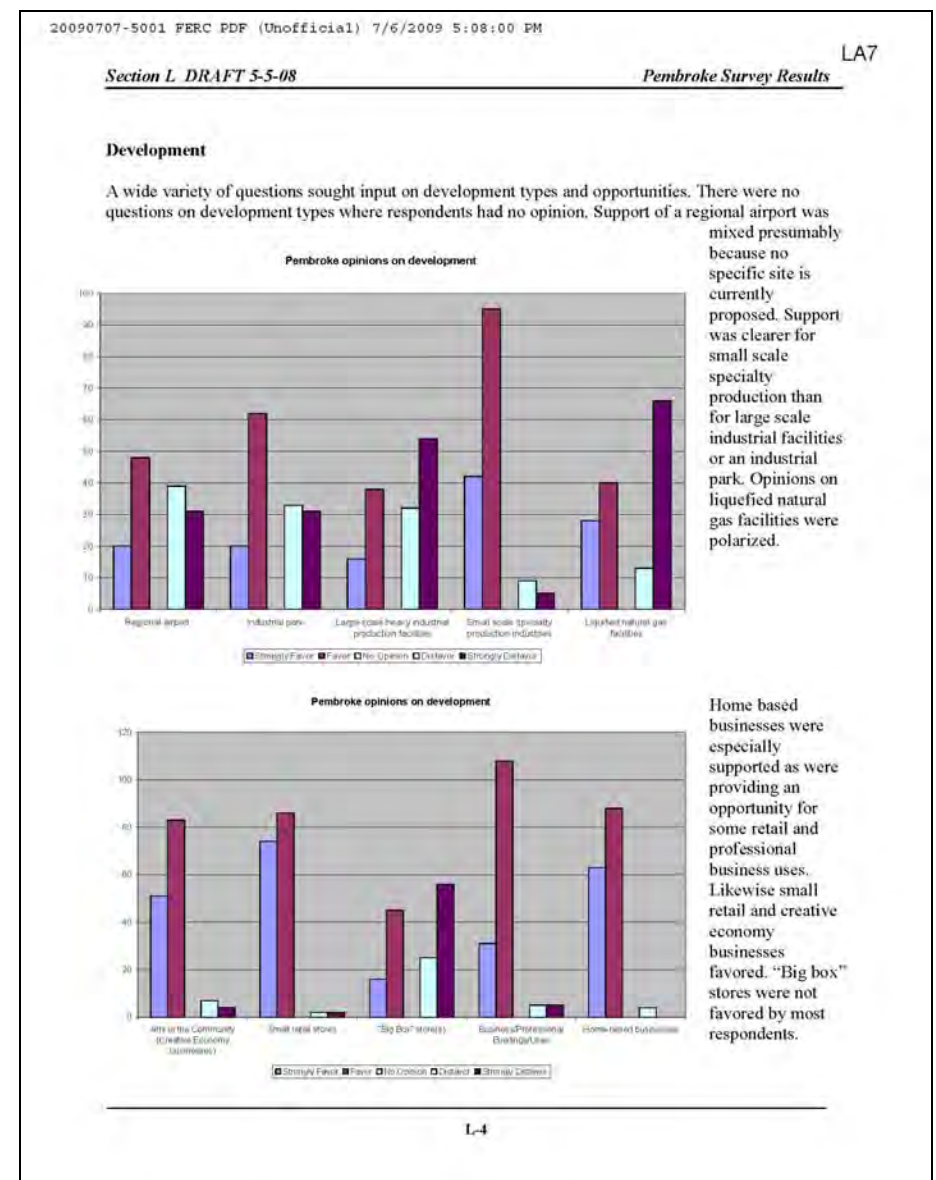
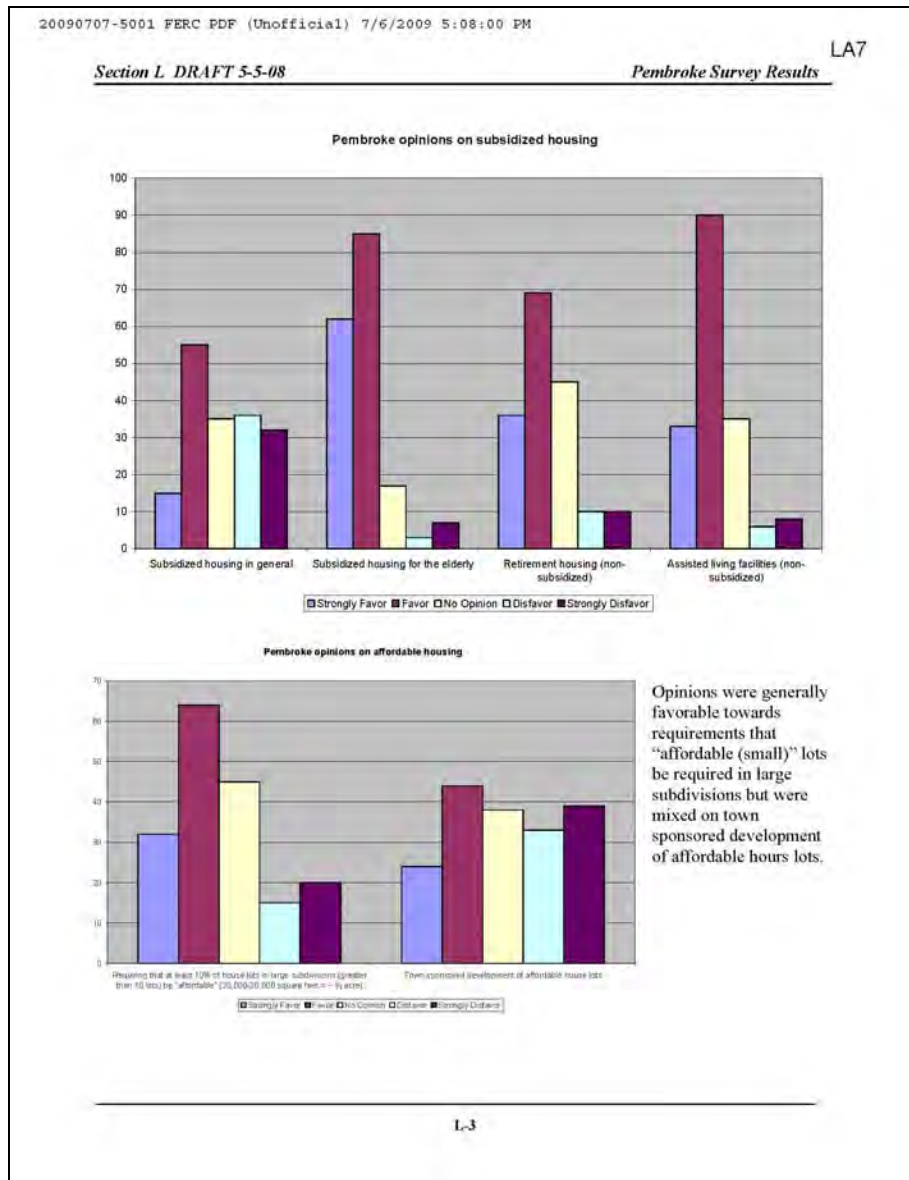
B. Housing, Development and Preservation

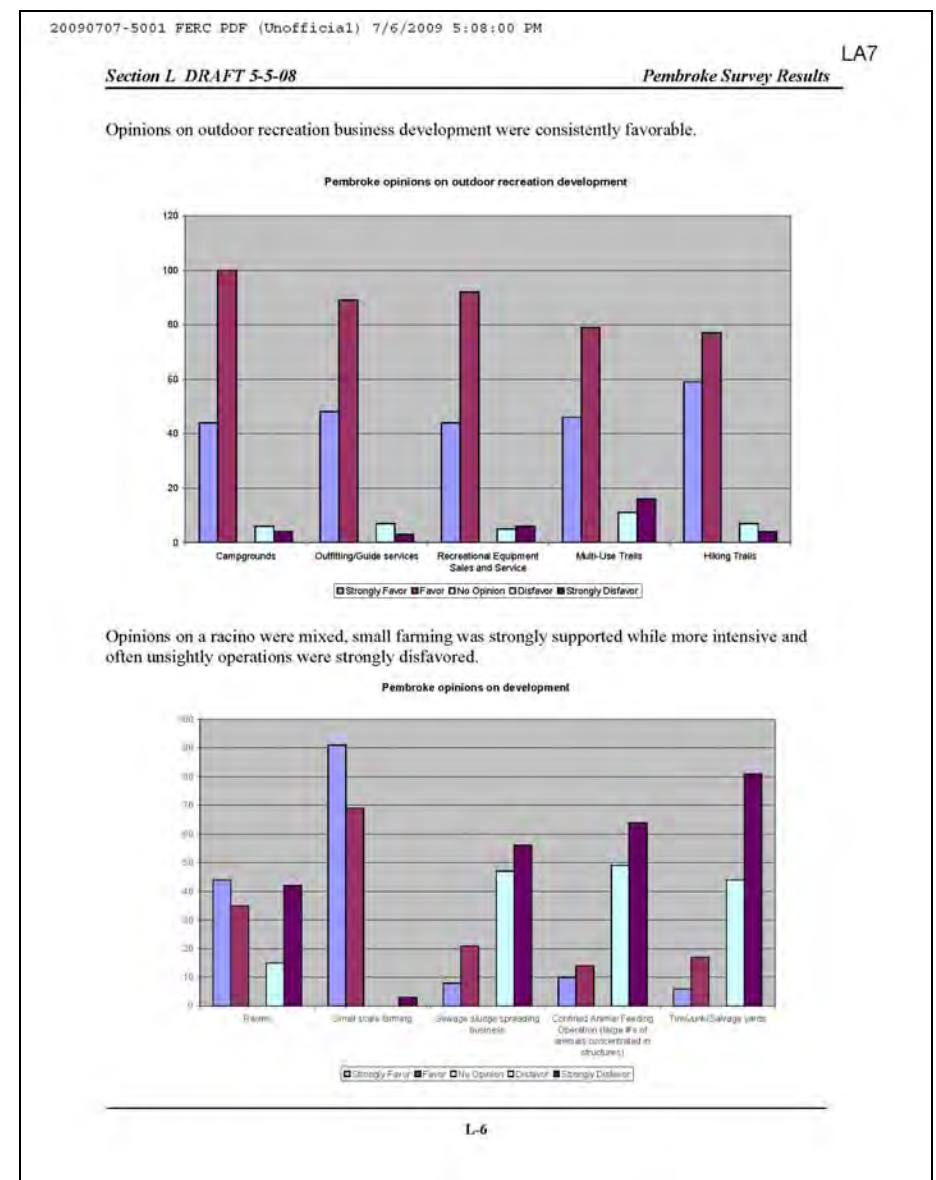
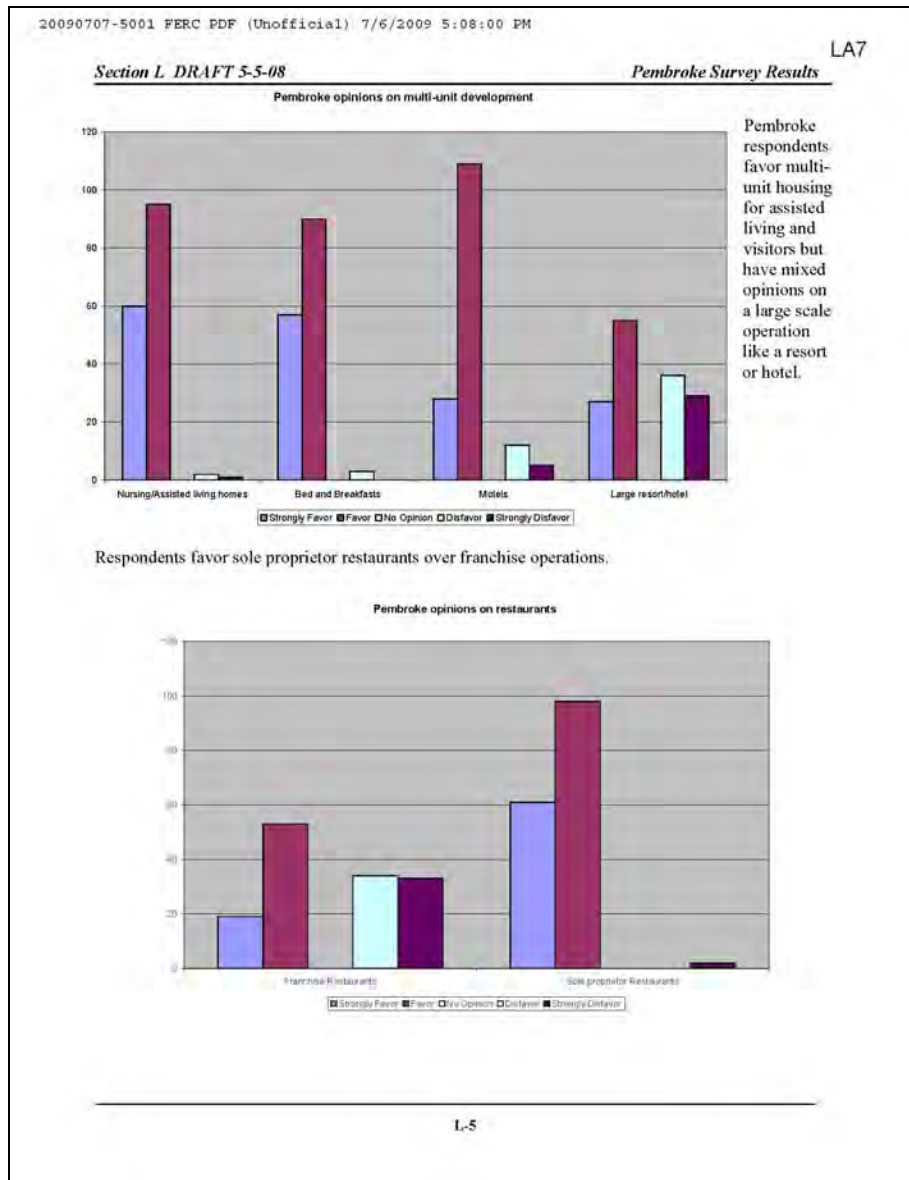
As in many Maine communities, Pembroke respondents strongly support single-family housing with less support for multi-family units or condominiums. Respondents also disfavor transient labor temporary housing.



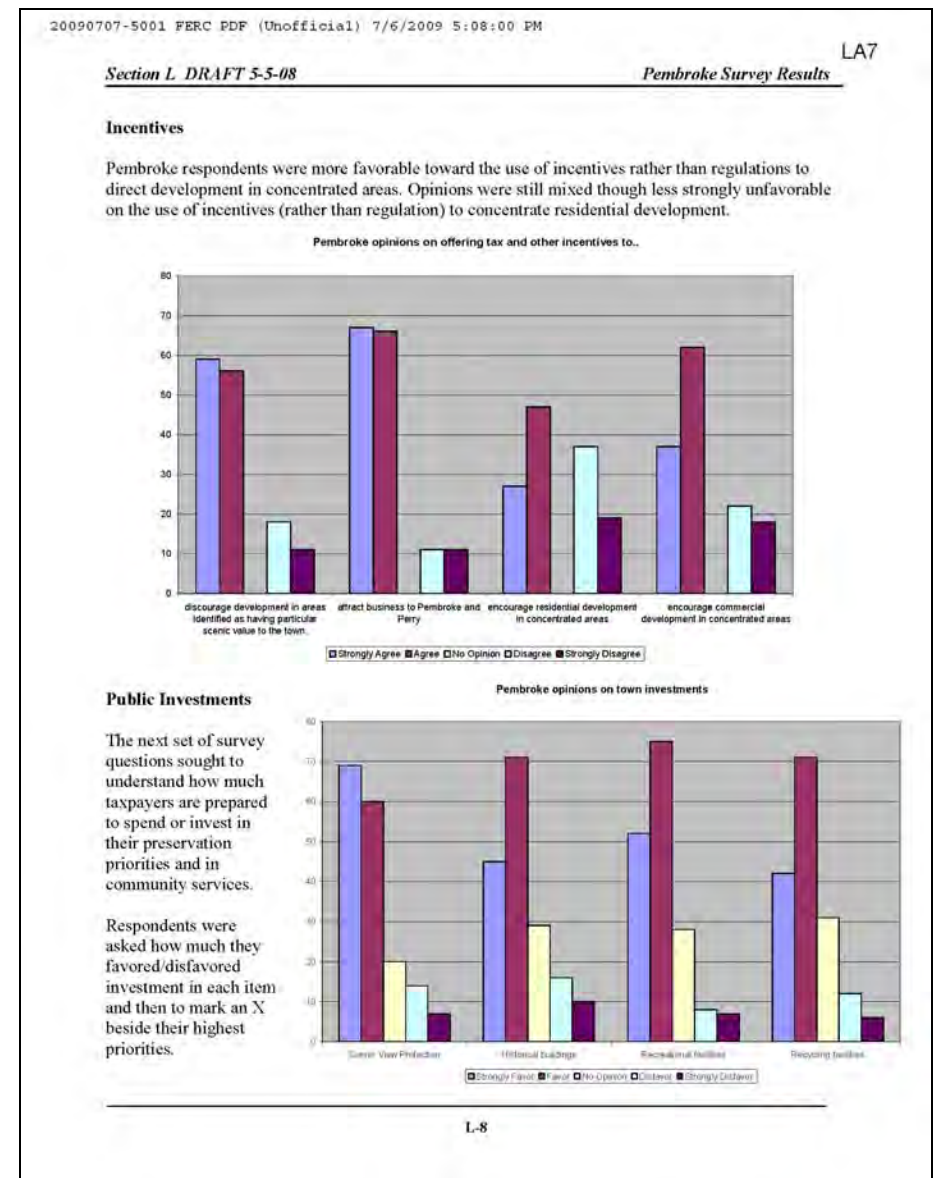
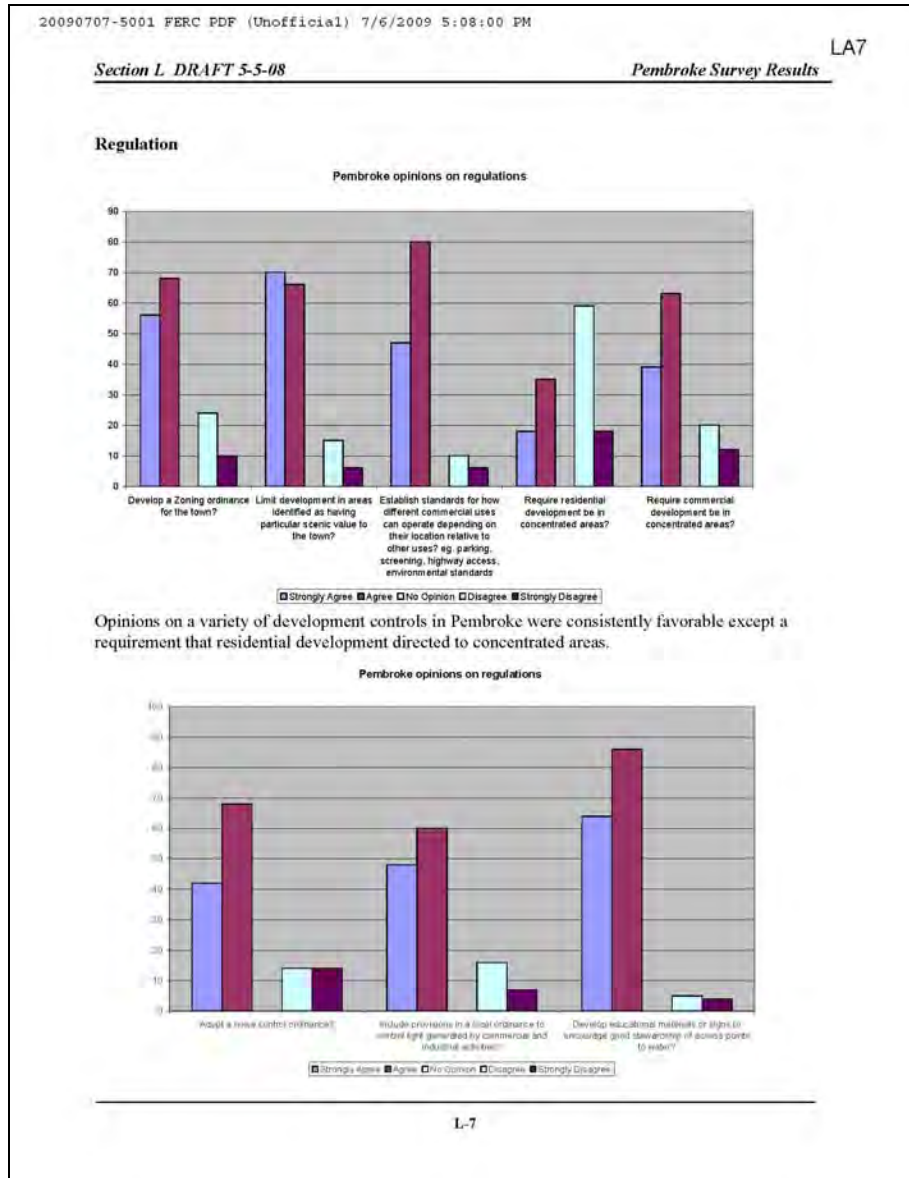
There is relatively strong support for retirement housing, assisted living facilities and subsidized housing for the elderly but less support for subsidized housing in general.

L-2

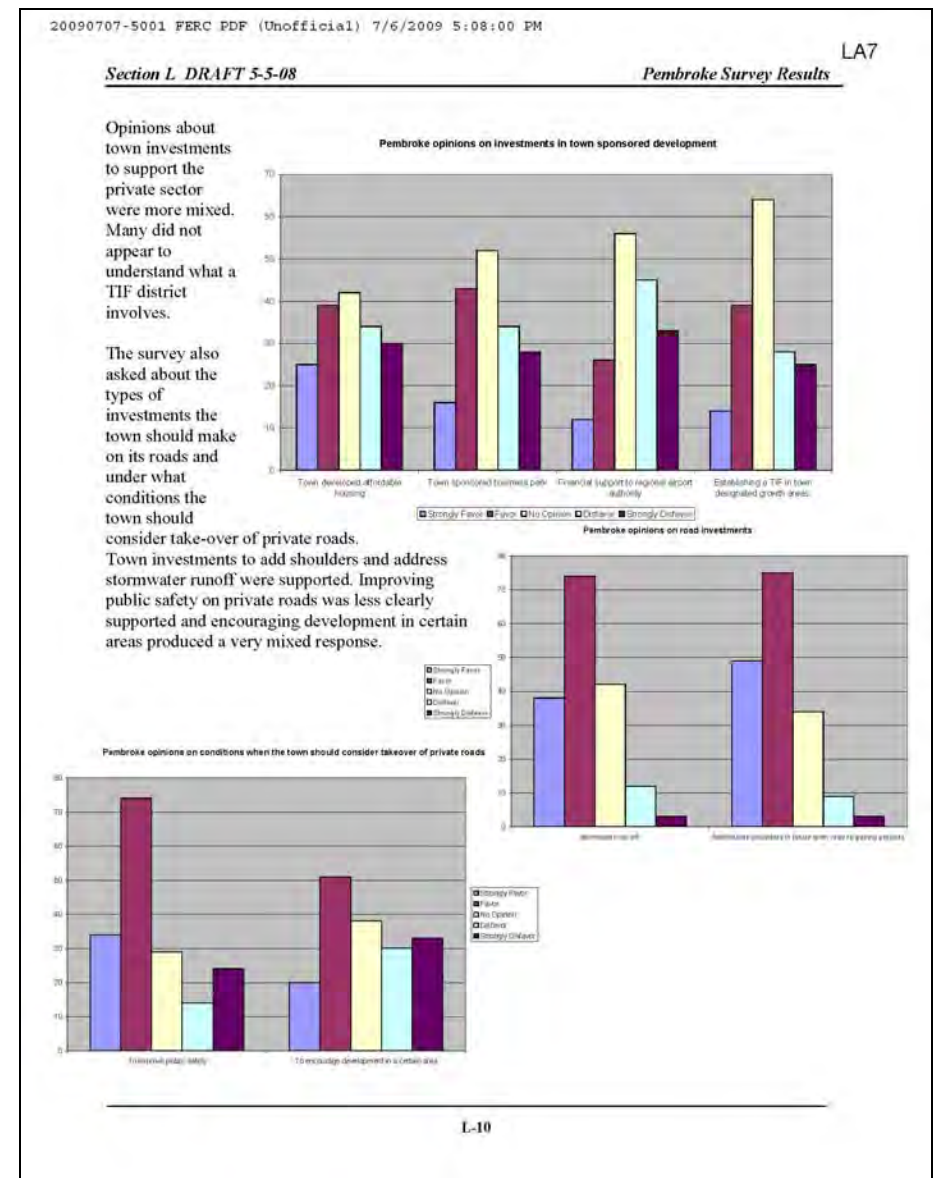
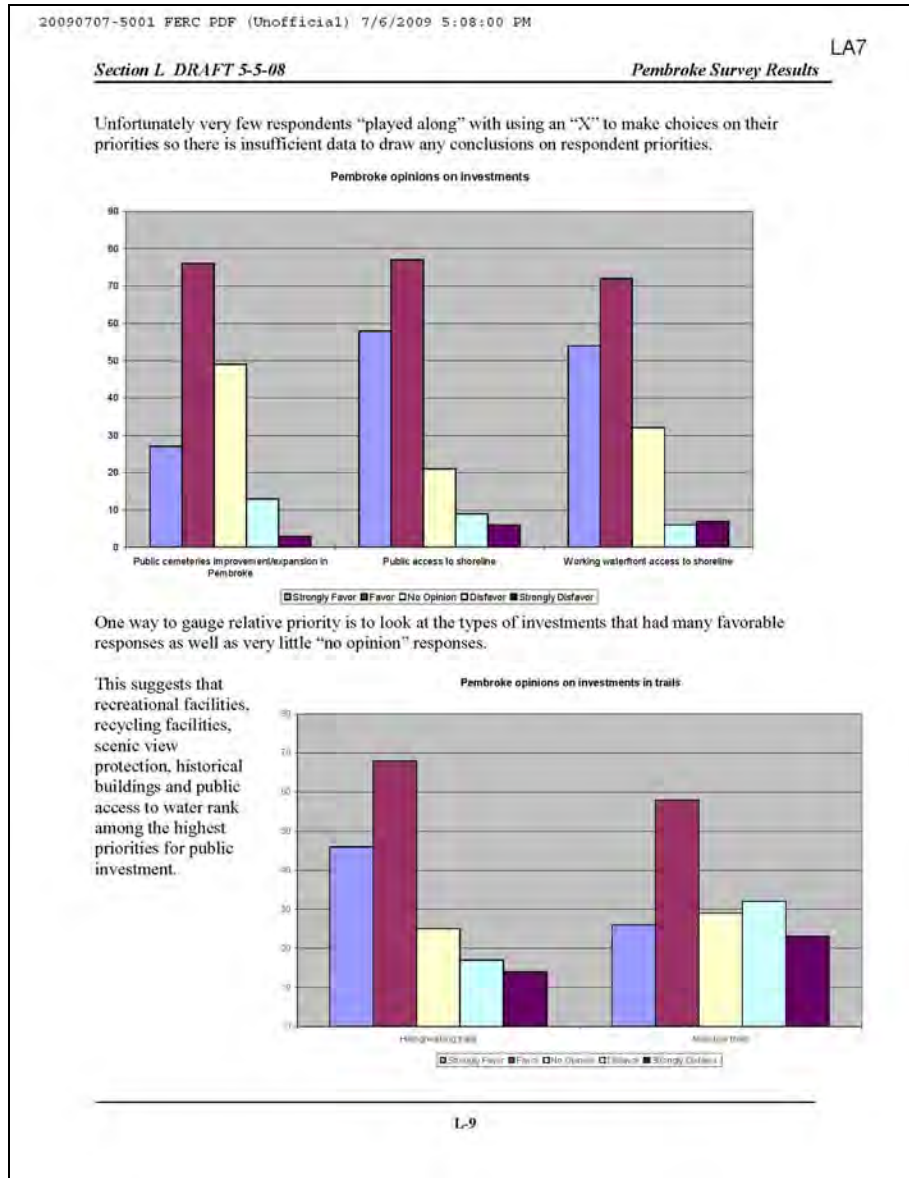


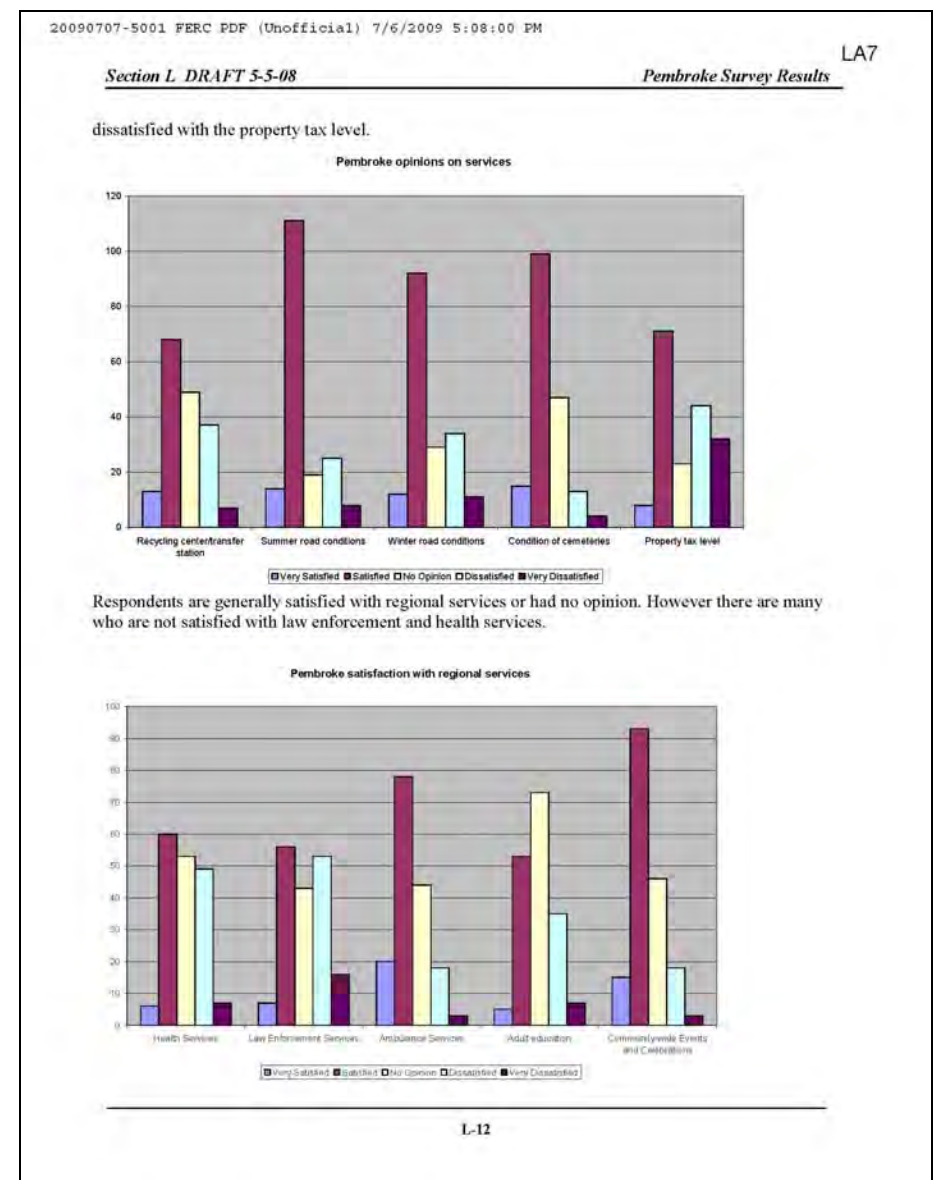
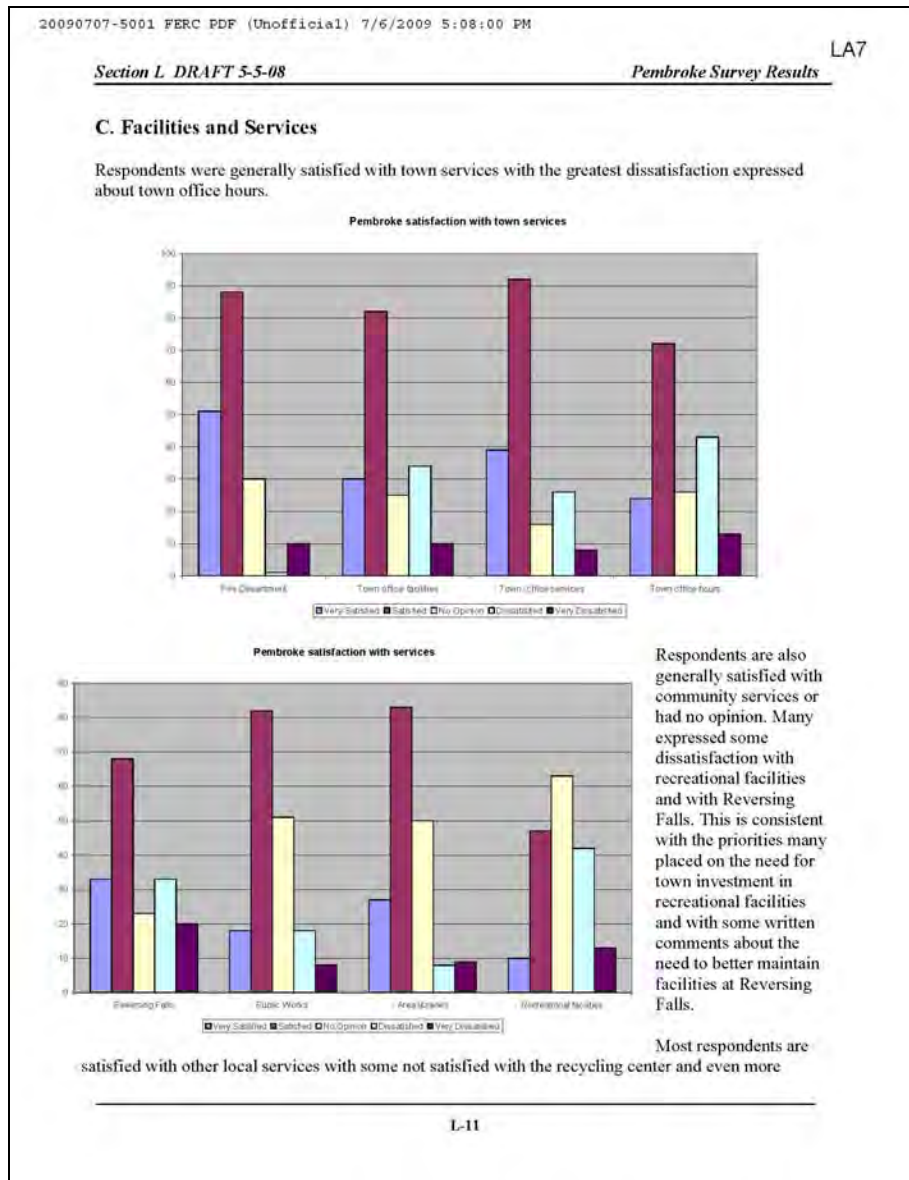














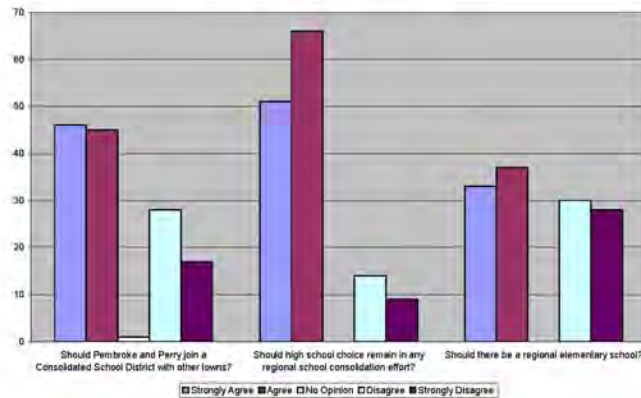
Section L DRAFT 5-5-08

Pembroke Survey Results

LA7

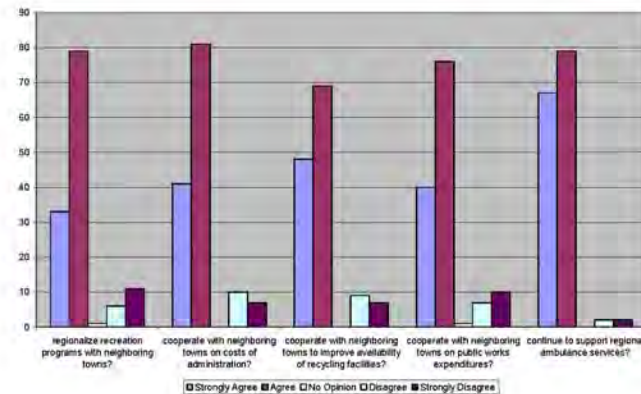
Regionalization of Services

Pembroke opinions on regional school issues:



Opinions on school regionalization were generally positive and both towns are now engaged in the state-mandated consolidation of administrative units. Opinions on a regional elementary school are polarized.

Pembroke opinions on cooperation with neighbors



Respondents generally favor regionalization (or continuance of existing regional coordination) on other issues.

L-13

Section L DRAFT 5-5-08

Pembroke Survey Results

LA7

SUMMARY

The survey asked some basic demographic questions to establish how closely respondents reflected the population as a whole. We found that respondents are composed of a greater proportion of men than exist in the general population and are somewhat more heavily weighted to the opinions of those over 30 years of age. Survey respondents have lived in Pembroke all or most of their lives with an average length of residency of 24.4 years for year round residents and 18.7 years for seasonal residents.

As in many Maine communities, Pembroke respondents strongly support single-family housing with less support for multi-family units or condominiums. Respondents also disfavor transient labor temporary housing. There is relatively strong support for retirement housing, assisted living facilities and subsidized housing for the elderly but less support for subsidized housing in general. Opinions were generally favorable towards requirements that "affordable" (small) lots be required in large subdivisions but were mixed on town sponsored development of affordable house lots.

A wide variety of questions sought input on development types and opportunities. There were no questions on development types where respondents had no opinion. Support of a regional airport was mixed presumably because no specific site is currently proposed. Support was clearer for small scale specialty production than for large scale industrial facilities or an industrial park. Opinions on liquefied natural gas facilities were polarized. Home based businesses were especially supported as were providing an opportunity for some retail and professional business uses. Likewise small retail and creative economy businesses favored. "Big box" stores were not favored by most respondents.

Pembroke respondents favor multi-unit housing for assisted living and visitors (tourists) but have mixed opinions on a large scale operation like a resort or hotel. Even though zoning controls can only regulate use (and not ownership) of development proposals, respondents favor sole proprietor restaurants over franchise operations.

Opinions on outdoor recreation business development were consistently favorable. Opinions on a racino were mixed, small farming was strongly supported while more intensive and often unsightly operations were strongly disfavored.

Opinions on a variety of development controls (develop a zoning ordinance, limiting development in areas having particular scenic significance, establishing standards for commercial development depending on its location relative to other uses) in Pembroke were consistently favorable except a requirement that residential development directed to concentrated areas. Pembroke respondents were more favorable toward the use of incentives rather than regulations to direct development in concentrated areas. Opinions were still mixed though less strongly unfavorable on the use of incentives (rather than regulation) to concentrate residential development.

The next set of survey questions sought to understand how much taxpayers are prepared to spend or invest in their preservation priorities and in community services. Respondents were asked how much they favored/disfavored investment in each item and then to mark an X beside their highest priorities. Perhaps because of the survey design, very few respondents made choices on their priorities so there is insufficient data to draw any conclusions on respondent priorities.

L-14

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LA7

*Section L DRAFT 5-5-08*

*Pembroke Survey Results*

An alternative way to gauge relative priority is to examine those types of investments with many favorable responses and very little "no opinion" responses. This suggests that recreational facilities, recycling facilities, scenic view protection, historical buildings and public access to water rank among the highest priorities for public investment in Pembroke. Opinions about town investments to support the private sector were more mixed. Many did not appear to understand what a TIF district involves.

The survey also asked about the types of investments the town should make on its roads and under what conditions the town should consider take-over of private roads. Town investments to add shoulders and address stormwater runoff were supported. Improving public safety on private roads was less clearly supported and encouraging development in certain areas produced a very mixed response.

Respondents were generally satisfied with town services with the greatest dissatisfaction expressed about town office hours. Respondents are also generally satisfied with community services or had no opinion. Many expressed some dissatisfaction with recreational facilities and with Reversing Falls. This is consistent with the priorities many placed on the need for town investment in recreational facilities and with some written comments about the need to better maintain facilities at Reversing Falls. Most respondents are satisfied with other local services with some not satisfied with the recycling center and even more dissatisfied with the property tax level.

Respondents are generally satisfied with regional services or had no opinion. However there are many who are not satisfied with law enforcement and health services. Opinions on school regionalization were generally positive and both towns are now engaged in the state-mandated consolidation of administrative units. Opinions on a regional elementary school are polarized while respondents generally favor regionalization (or continuance of existing regional coordination) on other issues.

LA8

July 8, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington, D.C. 20426

Re: Downeast LNG, Inc. Docket No. CP07-52-000  
CP07-53-000  
CP07-53-001

Dear Ms. Bose:

In regards to the letter of Jeanne A. Guisinger dated July 5, 2009 (Ascension Number 20090707-5001(22038388)) in the above cited docket, I just want to set the record straight. As chairman for the Town of Perry Maine Comprehensive Plan Committee, I was surprised to see a May 5, 2008 copy of the Part L - Survey Results being used as a record of the town's views and opinions. This plan is still in draft form and has not been finalized and it hasn't been put forth to the voters of the town for their approval or disapproval.

Because pertinent sections of the Summary of Part L were left out of Ms. Guisinger's letter, I am attaching the most recent Summary of Part L draft (June 17, 2008) that is accepted by the committee and is readily available at the Washington County Council of Governments website <http://www.wccog.net/landuse/permiperry.html>

Please note pages L-14 through L-17 that Ms. Guisinger left out of her letter.

Respectfully Yours

Gerald S. Morrison  
Chairman - Perry Comprehensive Plan Committee

LA8-1

## LA8 Town of Perry Comprehensive Plan Committee Chairman Gerald S. Morrison

LA8-1 We recognize that the citizens of the Town of Perry have differing views on the Downeast LNG Project. The NEPA process is a public process, affording interested citizens, organizations, and regulatory agencies the opportunity to submit comments on the project being evaluated in the NEPA document. All such submittals have been, and continue to be, available for review on the FERC eLibrary. The docket is constantly expanding as new information becomes available. We encourage informed and candid comment on the contents of the public docket.

We note that only pages L-16 and L-17 were missing from the referenced letter (included above as letter LA7), and therefore only those 2 pages are included here.



**LA8 Town of Perry Comprehensive Plan Committee Chairman Gerald S. Morrison (continued)**

LA8

**Section L DRAFT 6-17-08**

**Perry Survey Results**

respondents generally favor regionalization (or continuance of existing regional coordination) on other issues.

**SURVEY CHAPTER : Comprehensive Plan Committee Report**

In the interest of drafting a comprehensive plan that best represents the opinions and will of the people of Town of Perry, this plan is based on a broad representation of public participation and input.

The survey described in this chapter was mailed to every household in Perry as well as non-resident taxpayers. In an effort to encourage participation, those households where more than one adult lives were encouraged to make copies of the survey so each adult could participate. This was done on the honor system with the assumption that no one would complete more than one survey.

Surveys were returned by 132 people, the demographics of which do not reflect an accurate cross-section of Perry residents. Older people were vastly over-represented, with 88 respondents (69%) being over the age of 50, while just one respondent (0.76 %) was under the age of 30. It is also noteworthy that a full one-third (42) of the respondents were non-residents.

Given the unrepresentative nature of the survey respondents, the majority of the comprehensive plan committee feels that the survey is not an appropriate measure to use as the sole factor upon which to base the goals of the comprehensive plan. Rather it is viewed as providing one component of gauging public opinion.

As we consider the views of those who participated in the survey, we believe that recent municipal elections with four to five times the number of residents participating must be given even greater weight. The Town of Perry has had several high turnout elections in recent years and the voters have spoken on important issues facing the community.

In fact, in the three most recent elections for Selectman, in which the candidates' positions on development issues were a central issue, the citizens of Perry voted for the pro-development candidate each time.

2006		2007		2008	
Theriault	Turner	Adams	Frost	Guisinger	Spinney
151	178	223	210	160	182
45.90%	54.10%	51.50%	48.50%	46.78%	53.22%

LA8

**Section L DRAFT 6-17-08**

**Perry Survey Results**

On the specific issue of LNG development, the town is clearly divided with a majority of voters supporting LNG-related ballot issues in three of four referendum questions.

2005	2006	2007	2007
Gleason Cove Proposal	Quoddy Bay Funds	Quoddy Bay Financial Framework	Additional Negotiation Committee
NO YES	NO YES	NO YES	NO YES
279 214	167 238	211 229	236 205
56.59% 43.41%	41.23% 58.77%	47.95% 52.05%	53.51% 46.49%
Sought approval for LNG development on annexed tribal land	Sought approval to accept funds from QB LNG to pay for legal fees related to project	Sought approval for financial agreement negotiated by the Selectman	Sought to re-open negotiations with a larger group of participants
Note: The 2006 and 2007 ballot questions related to the new Quoddy Bay LNG project with an LNG pier on Pleasant Point land and tanks proposed for Perry land.			

Further calling into question the accuracy of the survey is the fact that an overwhelming 74% (98) of the respondents indicated support for the sharing of administrative services with neighboring towns. Yet, in the 2008 municipal election, Perry voters rejected such a proposal to share services with Pembroke and Charlotte that was supported by Selectmen Adams, Guisinger and Turner. Likewise, 62% (82) survey respondents indicated support for school district consolidation yet 266 of the 323 Perry residents (82%) voting in November 2007 signed petitions in opposition to the consolidation law.

In addition to the survey and election results, members of the comprehensive plan committee brought to the table our individual and collective life experiences. When appointing the committee, then-Selectmen Adams, Guisinger and Turner sought volunteers and jointly made appointments based on their recognition that each member would bring something positive to the process as small business owners, civic leaders, a school board member, parents, retirees, long-time residents and newcomers.

Throughout the process, the majority of the comprehensive plan committee sought to reach agreement on how to best approach those issues where the survey results and actual election results are in conflict. Our goal as a committee was to create a working document that accurately reflects the views of a majority of voters so that the plan can be approved and we can move forward as a community.

ORIGINAL

LA9

**Town of Perry**

P.O. Box 430, Perry, Maine 04667

July 8, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Docket # CP07-52-000, CP07-53-000, CP07-53-001

Dear Ms. Bose:

A recent filing by Jeanne A. Guisinger, of Perry, sought to give the impression that residents of the Town of Perry are opposed to LNG. However, her filing omitted pertinent information that is at odds with her claim.

Ms. Guisinger attached only a selected portion of a draft chapter of the unfinished Comprehensive Plan Update of the Town of Perry. Somehow, she was able to omit the last page and a half of that chapter. In sending you an excerpt which could lead you to believe Perry citizens are opposed to LNG, Ms. Guisinger left out some very important statistics that illustrate the true feelings of the majority of Perry voters regarding economic development in this area.

The Town of Perry has not held a municipal referendum on the Down East LNG facility proposed for Robbinston. However, the majority of Perry voters, as you will see when you read the missing pages of the document mentioned above, supported referendum questions that Ms. Guisinger opposed related to the development of the LNG facility proposed for Split Rock at Pleasant Point, which also borders Perry. The 2005 vote cited by Ms. Guisinger was, in fact, for a different proposal involving annexed tribal land. This premature vote was engineered by an anti-LNG group very early in the process before people had been educated on the LNG industry and were subjected to scare tactics such as warnings of children burning in their beds. After voters learned more about LNG facilities, each subsequent vote in Perry related to LNG resulted in outcomes favorable to LNG proponents.

It is particularly noteworthy that Ms. Guisinger, an outspoken LNG opponent, was formerly a member of the Perry Board of Selectmen, but was ousted from her seat by Perry voters in 2008. She was replaced by a pro-LNG candidate.

As you consider the views of Perry residents, I urge you to read and take into consideration this fact and the other statistics contained on pages 16 and 17 of the attached document. This is the relevant information missing from Ms. Guisinger's submission because she chose not to provide it to FERC.

FILED  
SECRETARY OF THE  
COMMISSION  
JUL 14 A 9:57  
FEDERAL ENERGY  
REGULATORY COMMISSION

LA9-1

LA9-1 We recognize that the citizens of the Town of Perry have differing views on the Downeast LNG Project. The NEPA process is a public process, affording interested citizens, organizations, and regulatory agencies the opportunity to submit comments on the project being evaluated in the NEPA document. All such submittals have been, and continue to be, available for review on the FERC eLibrary. The docket is constantly expanding as new information becomes available. We encourage informed and candid comment on the contents of the public docket.

We note that pages L-16 and L-17 were missing from the referenced letter (included above as letter LA7). Those two pages are included with comment letter LA8.

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LA10

September 9, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Docket #CP07-52-000, CP07-53-000, CP07-53-001

Dear Ms. Bose:

This letter will refer to my filing dated July 5, 2009 and the subsequent responses to that filing from Gerald Morrison of Perry and Perry Selectmen David Turner, John Spinney, and Richard Adams.

First to Mr. Morrison's response of July 8, 2009: Mr. Morrison cites additional pages of the Comprehensive Plan survey been omitted from my filing. I submit that my filing contained the results of the plan survey. What I did not submit was Mr. Morrison's written essay on the survey which attempted to discredit the results of that same survey. It should be noted that Mr. Morrison is the same Gerald Morrison who is Captain Gerald Morrison of the Quoddy Pilots of Eastport. This distinction was brought to light most recently in the filing of July 6, 2009, by the City of Eastport, which asks for an independent assessment and verification of the waterway's suitability for LNG vessel traffic, citing the input of the local pilots, who, "because of their financial interest in seeing increased large draft vessel traffic in the bay, have a clear and inherent economic conflict of interest". The filing was withdrawn after a protest from the pilots and their friends. The survey speaks for itself without Mr. Morrison's efforts to interpret same.

Secondly, I would like to address the letter of July 8, 2009, from the Perry Board of Selectmen. Again citing the information in Mr. Morrison's "missing pages" of the comp plan survey, they would have you believe that these pages demonstrate support for LNG development by the citizens of Perry.

However, of the four referendum issues noted on page L-17, only the Gleason Cove Proposal concerned the establishment of an LNG facility. The other three referendum proposals concerned the terms under which funds would be accepted from a developer who was then attempting to establish an LNG terminal on land which the Town of Perry did not control, but would affect the Town of Perry. Many who voted in favor of these three referenda were trying to ameliorate the considerable expense to which the Town would be subjected by the presence of a nearby terminal. These were not votes demonstrating support for LNG development, but rather votes to try to mitigate some of the significant costs to the Town of Perry of this development.

It should further be noted that the only time I ran for the office of selectperson for the Town of Perry on a strictly anti-LNG platform was in 2005. I bested Mr. Turner in that election. In the vote of 2008, when I was replaced by Mr. Spinney, I ran for office on a

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LA10

platform of open and transparent governance and a stand that the monies being offered by the LNG developer was insufficient to cover the costs of the impact of having such a facility in our midst.

It is sad to note that our community did elect to take the money as offered if the facility had been built. It makes one wonder why this community accepted such a minimal amount when multiple communities in Southern Maine said no. It can be explained by the phrase: social injustice. By my filing, you can see the animosity that is created in our small community by developers who may not have our best interests at heart. It gives "regional siting" real meaning and a more measured goal. Developers such as these should not be allowed to tear a community to shreds unless it has first been determined that this is actually the best place to put an LNG terminal—not just a place where a developer can push it through because of the plight of the people.

In any event, the original intent of my original filing may have been clouded by the responses to it. My filing was to point out that the Perry Board of Selectmen is not authorized to submit a letter of support for Down East LNG. Perry is governed by town meeting rule. Voters did not at any time authorize support for this project. The support they offer is as individuals and not as representatives of the Town of Perry.

LA10-1

Respectfully submitted,

Jeanne Guisinger  
815 Shore Road  
Perry, Maine 04667

LA10-1 We recognize that the citizens of the Town of Perry have differing views on the Downeast LNG Project. The NEPA process is a public process, affording interested citizens, organizations, and regulatory agencies the opportunity to submit comments on the project being evaluated in the NEPA document. All such submittals have been, and continue to be, available for review on the FERC eLibrary. The docket is constantly expanding as new information becomes available. We encourage informed and candid comment on the contents of the public docket.

## COMPANIES AND ORGANIZATIONS

### CO1 Sunrise County Economic Council

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CO1



Sunrise County Economic Council

June 8, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

**Re: Downeast LNG Project  
Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001**

Sunrise County Economic Council (SCEC) is writing in response to a motion filed by Shems, Dunkiel, Raubvogel & Saunders PLLC on behalf of Nulankeyutomonen Nkiltahkomikumon (We Take Care of Our Land), Save Passamaquoddy Bay – Canada, Inc. and Save Passamaquoddy Bay – United States, requesting a 90-day extension of the public comment period on the Draft Environmental Impact Statement (DEIS) prepared for the Downeast LNG project in the above captioned dockets. We believe that granting an extension would be both unwise and unfounded at this time.

SCEC is a private nonprofit organization that initiates and facilitates the creation of prosperity and jobs in Washington County, Maine. Founded in 1993, SCEC has designed and implemented long-range solutions to the multi-faceted economic and community development issues facing Washington County by crafting robust partnerships with area nonprofits, state and local government, and our diverse business community. Since 1998, this collaborative approach has generated nearly \$10 million in funding for locally initiated projects, creating hundreds of jobs, and has helped distinguish SCEC as a champion for our region.

SCEC believes that it is not prudent to grant this extension because doing so would have the adverse affect of delaying a potentially transformational project at a time when Washington County's economy is facing historically high unemployment rates. Currently, the Calais Labor Market Area, which includes the Passamaquoddy region, has an unemployment rate of 13.8%. This data reflects the unemployment rate before one of our County's largest employers, Domtar Corporation, idled its pulp and paper mill in eastern Washington County. This is of significant concern in a County of only 32,499 (US Census 2008 estimate—www.uscensus.com) residents, and we cannot overstate the severe economic impact this closure has in an area that is one of the most economically challenged in the State of Maine. This closure has resulted in the layoff of approximately 317 mill-workers and 140-plus workers who indirectly relied on the mill for their employment. Indirect jobs include small businesspeople, independent truck drivers, stevedores, forest workers, and more.

Harold Clowesey  
Executive Director  
1 Stackpole Road  
P.O. Box 878  
Buckley, Maine 04604-0878  
Tel: 207.255.0380  
Cell: 207.598.6816  
Fax: 207.255.0997  
hclowesey@sunrisecounty.org  
www.sunrisecounty.org

CO1-1

CO1-1 See response to comment NA1-1.



CO1

Job loss of any size has ripple effects across the county. Families have less discretionary income. They don't go out to eat as much. They don't go to the movies or spend as much money in local stores. Seasonal workers often have to rely on secondary incomes in order to sustain their lifestyles. They are small business owners with working spouses, or other family members who supplement household income as well.

Furthermore, fishermen and tourism-related industries are not monolithic. Many fishermen work year round, harvesting anything from lobsters to clams, to scallops, to sea urchins, periwinkles or herring. In other words, seasons vary from fisherman to fisherman, depending on what they catch.

Tourism related industries have a more uniform "season" although even that depends largely on the individual business. Some open for business as early as mid-April and run through October, while others open the traditional Memorial Day weekend and stay open through Labor Day weekend. Add to this the fact that each business has its own hours of operation, its own clientele, and its own specific season, and there's no way to quantifiably argue that area residents would be prohibited from testifying on the project either orally or in writing.

It must also be noted that the Downeast LNG project was not proposed in May 2009 for the very first time. It has been in the works for several years. The public has had ample opportunity to participate in hearings, air their concerns, and inform federal officials of the many dynamics involved in such a project. This process is respected and welcomed by SCEC.

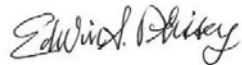
Moreover, extending the public comment period once may open the door to an indefinite extension. What is to stop the petitioners from seeking additional time if this request is granted? One could reasonably argue that an extension puts the project into the fall and winter months, and that the weather during that time is hazardous and unpredictable, and that therefore the comment period should be extended further until the following spring. We hope that this request for a delay is not a tactic and will not impede the process moving forward, regardless of the final outcome.

It does not matter whether one is for, against, or undecided on this particular project, or other natural gas development projects in eastern Washington County, as we strongly believe extending the comment period is not in the best interest of the people of our region who are awaiting a decision. We ask you to not to delay the process and to proceed on the current timeline.

Sincerely,



Harold Clossey  
Executive Director



Edwin Plissey  
Board Chair

CO1-1  
cont'd

20090610-0043 FERC PDF (Unofficial) 06/08/2009

CO2

June 8, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001

Dear Ms. Bose:

We appreciate this opportunity to rebut the assertions presented in the Motion to FERC for enlargement of the comment period filed on behalf of Save Passamaquoddy Bay and other parties.

We received on Friday, June 5th, 2009 the motion to FERC for enlargement of the comment period on behalf of Save Passamaquoddy Bay and other parties.

We read this with great interest as the main premise of the motion is that the May 15th to July 6th comment period occurred during the "peak fishing season" for the personnel involved in the fisheries in the Passamaquoddy Bay region.

We would like to point out that in this area the urchin dragging season is closed, the scallop season is closed, no one is dragging sea cucumbers in the region, the elver season is closed, no weirs for fishing herring are dressed on the U.S. side of the bay nor have any herring been caught, no herring seining is occurring, and sea weed harvesting has not started to date (June 6th).

The ferry between Eastport and Deer Island in Canada is not running and does not begin operations until approximately June 15th. We have seen no whale watching boats working in May, and as of today many are not yet launched from the boatyards.

The price of lobsters is historically low and very few traps compared to last year were set in May. Clam digging is in season (year round) when there is no red tide and currently the price of clams is \$0.80 which is very low. Periwinkle harvesting is also a year round fishery but as both wrinkling and clamming are tidal the diggers seldom are able to dig for more than 6 hours per day. Mussel dragging is also year round but spring is the low season for harvesting. This is certainly not the "peak fishing season" for lobstering, clamming, periwinkling, or mussel dragging.

As ship pilots and commercial fishermen, we have spent much time in many meetings both formally and informally explaining the LNG transit plan to the various fishermen. The draft EIS does not present anything contrary to what we

CO2-1

CO2-1 See response to comment NA1-1.

CO2 Captain Robert J. Peacock and Captain Gerald M. Morrison  
(continued)

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CO2

have already discussed with the fishermen. We were also heavily involved in the Maine State hearings reviewing the testimony and comments presented by the fishermen, and have discussed that testimony and the comments directly with many of the fishermen.

CO2-1  
cont'd

We are involved directly or indirectly in many of these fisheries and for certain anyone involved in the fisheries could make a comment in the 45 day period of May 15th to July 6th if they wished. More importantly, any delay will cause harm in fact to the fishermen, many of whom were employed at Federal Marine Terminals and are being laid off due to the closing of the Domtar Mill in Woodland, Maine on May 5th. We, as ship pilots, and our employees on the pilot boats (who also fish), will also be harmed by any delay as shipping has dropped to zero after this month due to the mill shutdown.

Sincerely,



Captain Robert J. Peacock,  
Quoddy Pilots USA  
R. J. Peacock Canning Co.



Captain Gerald M. Morrison  
Eastport Pilots  
Morrison Manufacturing

20090625-0022 FERC PDF (Unofficial) 06/22/2009

ORIGINAL

CO3

To:  
**Kimberly D. Bose, Secretary**  
**Federal Energy Regulatory Commission**  
 888 First St. N.E. Room 1A  
 Washington DC USA 20426

From:

**FundyCulture Museum Network**  
 Carol Baker, Chair, FundyCulture Museum Network

c/o Ross Memorial Museum, 188 Montague St  
 St Andrews, New Brunswick, Canada E5B 1J2  
 tel: 506 529 5124 email: rossmuse@nb.aibn.com

June 9, 2009

**Project Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001**

**Response to Draft Downeast FERC Environmental Impact Statement**

**Re: Impact of LNG on Cultural Resources in Passamaquoddy Bay**

FundyCulture Museum Network is a diverse group of cultural organisations in the Passamaquoddy Bay-Saint Croix River area which includes museums, provincial, national and international historic sites, nature preserves, archives and a horticultural garden.

Our museum network represents only some of the many organisations in this area which preserve, protect and present this area's incredibly rich cultural and natural legacy and foster the living culture which we all still enjoy.

Over 250,000 people visit our Museum Network organisations annually to learn about Passamaquoddy Bay, it's history, natural environment, people and culture.

The proposed construction of Downeast LNG's terminal and wharf, along with the ensuing LNG tanker traffic, would negatively affect the cultural resources in this area. The impact on the tourism industry which relies on our cultural and natural resources, and which has sustained this area for over one hundred years, would be serious and long lasting. Cultural resources do not exist in a vacuum—they are inextricably linked to their landscape and environment. This culture, this history and these natural surroundings have provided the foundation for a strong and sustainable tourist industry—and created hundreds of jobs which would be put at risk should this project proceed.

Destruction of the natural and cultural landscape (including view/sight planes, e.g. St. Andrews National History District), the impact of industrialisation on tourism,

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CO3-1

CO3-1 We do not believe that the project would have an adverse effect on the area's cultural resources and the tourism industry. Visual and cultural resources (as well as potential project impacts and proposed mitigation) are discussed in sections 4.7.4 and 4.10 of the EIS, respectively. A discussion of recreation and tourism and potential impacts on tourism in the area can be found in sections 4.7.3 and 4.8.2.3. Air quality and safety are discussed in sections 4.11 and 4.12 of the EIS, respectively. We believe project impacts on these resources have been adequately addressed in the EIS and the mitigation measures proposed by Downeast and recommended by FERC staff are sufficient to mitigate or minimize the impacts.

Regarding the commenter's concern about industrialization, see response to Comment NA4-138.

During construction of the terminal and pipeline, Downeast would mitigate traffic disruptions that could affect tourist travel to local businesses. See section 4.9.1.2 of the final EIS regarding mitigation measures. During operation, an LNG vessel would travel the waterway on average once per week in the summer; impacts to waterway users would be mitigated with advanced vessel scheduling and notification to waterway users.

CO3

safety and air quality are all issues which have not been adequately addressed in the Environmental Impact Statement in our opinion and deserve and require additional study.

Projects of this kind should be constructed in pre-existing industrial zones. It benefits no one to industrialise an area of outstanding cultural and natural importance. Places of great cultural value and natural beauty deserve *protection*.

It is also of no benefit to threaten existing permanent tourism-related jobs in exchange for a very limited number of industrial jobs.

Museum professionals are all too familiar with disasters large and small and know that accidents *will* happen. Any accident associated with LNG could be catastrophic in scale and devastating to the cultural and natural resources of the area—and its people. To say that “Because it is unlikely that a substantial cargo release would occur, we conclude that an accident involving an LNG vessel or the Downeast LNG import terminal is unlikely to affect the public” (Executive Summary, p. 5) is like the White Star shipping line saying “it is unlikely the Titanic will sink and anyone will drown.”

CO3-2

All accidents are, by their very nature, *unlikely*.

For these reasons we continue to be opposed to this project.

Sincerely,



Carol Baker, Chair, FundyCulture Museum Network

**NB** Parks Canada, United States National Parks Service and Roosevelt Campobello International Park have made comments previously to FERC on this subject and will be addressing their comments to the FERC Environmental Impact Statement separately from FundyCulture Museum Network.

### CO3 FundyCulture Museum Network (continued)

CO3-2 The risk of a hazardous event of LNG is very small due to the strict regulations and standards applied to LNG facilities. Downeast must design, construct, operate, and maintain the LNG terminal facilities in accordance with the DOT's Federal Safety Standards for Liquefied Natural Gas Facilities under Title 49 Code of Federal Regulations (CFR) Part 193 and by incorporation, National Fire Protection Association (NFPA) 59A, Standard for the Production, Storage, and Handling of LNG, 2001 and 2006 editions, as applicable. These standards specify siting, design, construction, equipment, and fire protection requirements for new LNG facilities. In addition, FERC staff and consultants have reviewed the layers of protection incorporated into the front end engineering design (FEED) of the proposed Downeast facilities to help ensure the risk from these hazardous events are mitigated to an appropriate level. Downeast would also be required to adhere to any conditions placed on them to further mitigate the risks from the facilities, as recommended by FERC staff. Section 4.12.3 discusses proposed mitigation measures recommended by FERC staff.

Moreover, as discussed in section 4.12.4, Downeast must meet the siting requirements in the DOT 49 CFR 193 regulations and, by incorporation, NFPA 59A. These regulations and standards require the evaluation of hazardous events that could occur in the unlikely event of a loss of containment. As described in section 4.12.4, FERC staff works closely with DOT staff to ensure the applicant evaluates these low likelihood events and their associated consequences appropriately. The consequences from the low likelihood events indicate there would not be an impact to the public.

As described in section 4.12.7, all LNG vessels are required to be certified by the Coast Guard as designed and operating in accordance with both international standards and the U.S. regulations for bulk LNG carriers under 46 CR 154. In addition, hazards resulting from accidents and from intentional acts are both described in sections 4.12.7.2 and 4.12.7.3, respectively. Consequences from postulated intentional acts are described and used by the Coast Guard to assess the maritime and security risks of LNG marine traffic. Based on the results of the assessment of potential risks to navigation safety and maritime security associated with the Downeast proposal, the Coast Guard determined the waterway along the proposed carrier transit route would be suitable for the type and frequency of LNG marine traffic associated with this proposed project, provided that the risk mitigation measures defined in the Waterway Suitability Report are implemented as explained in section 4.12.7.6.



CO4

Katie's on the Cove/Handmade Confections  
9 Katie Lane  
Robbinston, Maine 04671  
(207) 454- 8446

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REGULATORY COMMISSION

June 17, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Docket Number: PF06-13

This is a letter of support for extending the DEIS Comment Period for the Downeast LNG Project on Mill Cove in Robbinston, Maine.

For the past 27 years, my husband and I have owned and operated Katie's on the Cove/Handmade Confections. Our retail shop and confectionary kitchen is located on a section of "old" U. S. Route 1 directly across the road from Mill Cove and the site of the proposed Downeast LNG project.

Katie's on the Cove is a tourist-based business, and our candy's reputation has earned us inclusion in several national tourist guides as a "must see attraction." We make 21 varieties of chocolates, 6 different fudges and 20 different truffles, as well as carry a line of other confections for resale. The candy business is our only means of income, 85% of which is generated from mid-June to the Holiday Season.

We begin production for the summer season in mid-May, and open the retail shop on U. S. Route 1 for 6 days a week as soon as school vacation starts. During the whole month of June, we work 12 hour days/ 7 days a week producing candy and fudges for the Fourth of July Celebration in Eastport, where we set up a tent and sell candy for the 4 to 5 days.

Given the timing of the current Comment Period and our workload, we just do not have the time (or energy) to adequately read and study and understand the DEIS, a long and complicated document. The location and nature of our business makes it imperative that we address areas of our concern to the best of our ability. We believe an extension of 90 days would give us that opportunity.

CO4-1

Thank you very much for your time and consideration,

*Lea Joseph Sullivan*

Lea and Joseph Sullivan  
Katie's on the Cove/Handmade Confections  
www.katiesonthecove.com

CO4-1 See response to Comment NA1-1.

CO5

July 5, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., NE, Room 1A  
Washington, DC 20426

Re: Downeast LNG. Docket Nos. CP07-52-000, CP07-53-000, and CP07-53001

Dear Secretary Bose:

Roosevelt Campobello International Park (the Park) was created to commemorate FDR and as a symbol of friendship between the U.S. and Canada. It encompasses an area of 2,800 acres/1,120 hectares that provides a natural setting for the Franklin D. Roosevelt Summer Home and an historic summer-cottage district.

The Roosevelt Campobello International Park Commission (Park Commission, Commission) charged by the governments of Canada and the United States with administering the Park. The Commission has reviewed the comprehensive *Draft Environmental Impact Statement for the Proposed Downeast LNG Project* (Draft EIS) and notes that:

- ⑤ The Commission is in full agreement with Federal Energy Regulatory Commission (FERC) staff's and the U.S. Coast Guard's recommended mitigation measures, especially the recommendation that *Throughout the life of the facility, Downeast should ensure that the facility and any LNG vessel transiting to and from the facility comply with all recommendations set forth by the Coast Guard COTP Sector Northern New England including all Risk Mitigation Measures recommended in the WSR.*⑤
- ⑥ The Commission strongly endorses mitigation measures that require coordination and cooperation with the Canadian government.
- ⑦ The Park Commission continues to have concerns relating to the project - specifically in the areas of safety, air quality, and tourism, and asks that in the *Final Environmental Impact Statement for the Proposed Downeast LNG Project* the FERC address the following issues.

The Park Commission continues to have serious concerns relating to the passage, anchorage or holding of LNG tankers in Friar Roads just offshore of the Roosevelt Campobello International Park's historic core.

This historic core contains the historic Franklin D. Roosevelt Summer Home, the Park's Visitor Center, and four additional historic cottages now used in the Commission's conference program. Almost all Park visitors tour the Visitor Center and the Roosevelt Summer Home. Conference program attendees lodge and take their meals in the conference program cottages.

Downeast LNG Draft Environmental Impact Statement Section 4.7.3.1, on page 4-215 states, *No federal park occurs in the transit route or within the Sandia Zones of Concern. The southern portion of Roosevelt Campobello International Park, approximately 335 acres, is located within Sandia Zone 3. No*

CO5

historic structures within the International Park are located within Zone [of Concern]3. Liberty Point is the largest vehicle parking area in the Roosevelt Campobello International Park=s Natural Area. At this location, there are two decks for observation of scenic vistas, marine mammals, and birds. Liberty Point is a popular hiking area and is the beginning of hiking trails that parallel the shore to Lower Duck Pond and to Raccoon Beach, both of which are within the Zone of Concern 3 for their entire lengths.®

In section 4.12.5.5 of the Draft EIS, on page 4-381, it is stated, “FERC requires that the Risk Mitigation Measures recommended by the Coast Guard be fully implemented. In addition, FERC has included a recommendation in this section of the EIS that, throughout the life of the facility, Downeast ensure that the facility and the LNG vessels comply with all recommendations set forth by the Coast Guard COTP Sector Northern New England, including all risk mitigation measures contained in the WSR. These measures are further detailed in the WSR and include, among others, the following: . . . ®

Included in above-mentioned “the following®, and under 4.12 - Reliability and Safety, Water Suitability Report, number 4. These parameters must include the following: on page 4-382 is the text, “With the exception of temporary boarding areas established by and for Coast Guard authorized assets, the anchoring or holding of LNG vessels within **Friar Roads** is limited to confirmed emergency situations only, such as major mechanical malfunctions and reduced visibility situations following nonforecasted, abrupt weather changes (fog, squalls, etc.) and/or as directed by, and in consultation with, the COTP.®

The Park Commission believes that abrupt fog changes are not uncommon in the Head Harbour/Friar=s Roads area, with, at times, fog moving into the passage and Friar Roads and receding from the passage and Friar Roads many times throughout individual summer days. This meteorological factor increases the potential use of an “emergency® anchorage or holding in Friar Roads.

While Draft EIS Section 4.7.3.1 is accurate in stating that no historic structures within the International Park are located within a Sandia zone along the proposed tanker route on the eastern side of Campobello, the statement may not be true should a tanker be in transit to or anchored or held in a Friar Roads anchoring or holding area. Such an anchorage or holding would likely be outside the normal tanker route and much closer to the Park=s historic core. Closer proximity of an LNG tanker could place the historic core and its facilities, visitors, and staff within a Sandia Zone of concern. (See page 7, attached Appendix F Figure F-3 Downeast LNG Project, Waterway for LNG Marine Traffic: Sheet 2 of 9.)

The Park Commission requests that FERC examine and address in the Downeast LNG Final Environmental Impact Statement, with regard to anchorages or holding areas within Friar Roads, whether the Park=s historic core would or would not be included in a Sandia zone of concern, and if included in which zone of concern:

- § Zone 1, where impacts on structures and organisms are expected to be significant to within 500 meters;
- § Zone 2, where damage from radiant heat levels are expected to transition from severe to minimal between 500 and 1,600 meters; or
- § Zone 3, where impacts on people and property are expected to be minimal between 1,600 meters and a conservative maximum distance of 3,500 meters but within the vapor cloud dispersion distance to the LFL from a worst case unignited release, where impacts to people and property could be significant if the vapor cloud reaches and ignition source and burns back to the source.

On page 1-12, the Draft EIS Introduction states, “... The EPC Act also stipulates that, before the Commission may issue an order authorizing an LNG terminal, it must “review and respond specifically® to the safety matters raised by the state agency designated as the lead for the state and local safety matters. Appendix D presents FERC=s response to the Maine SPO Safety Advisory Report for the

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CO5-1

CO5-1 According to the Coast Guard’s Waterway Suitability Report, LNG vessels would not be allowed to anchor in Friar Roads while waiting for a berth; anchoring or holding in this situation must occur offshore. With the exception of temporary boarding areas established by the Coast Guard, the anchoring or holding of LNG vessels within Friar Roads would be limited to emergency situations only, such as major mechanical malfunctions and reduced visibility resulting from non-forecasted, abrupt weather changes. Therefore, the anchoring or holding of an LNG vessel in Friar Roads would be infrequent, and if needed would be within the established LNG vessel route with the associated Sandia Zones of Concern as evaluated in the EIS. Further, the WSR states; “Loaded, inbound LNG carriers transiting Head Harbor Passage and Western Passage must maintain ample separation distance and uphold, at a minimum, the safety and security zone parameters. The intent of this limitation is to preclude the possibility of incurring overtaking situations and/or the need for holding at, or anchoring in Friar Roads. Non-LNG vessels may anchor in, or hold at Friar Roads while waiting for a vessel proceeding in the opposite direction to transit Head Harbor Passage or Western Passage.”

CO5

*Downeast LNG Project.*§ In Draft EIS Appendix D, TABLE D-1, FERC=s Responses to Concerns Presented in the Maine State Planning Office Safety Advisory Report for the Downeast LNG Project are the following statements:

- § Page D-8: . . . ¶Section 4.12.6, *Emergency Response and Evacuation Planning*, contains a condition to the effect that Downeast should develop an ERP (including evacuation) and coordinate procedures with the Coast Guard; state/provincial, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal agencies. The specific consultations proposed here by the State may be conducted during development of the ERP.¶
- § Page D-9: . . . ¶The FERC has recommended that the ERP should include a Cost-Sharing Plan identifying the mechanisms for funding all project specific security/emergency management costs that would be imposed on state and local agencies. In addition to the funding of direct transit-related security/emergency management costs, this comprehensive plan should include funding mechanisms for the capital costs associated with any necessary security/emergency management equipment and personnel base.¶ . . .
- § Page D-9: . . . ¶Necessary coordination with the Canadian government is addressed in EIS Sections 4.12.5.5, *Requirements for LNG Vessel Operations*, 4.12.2, 4.12.6, *Emergency Response and Evacuation Planning*, and Appendix B, *Coast Guard=s WSR*. The WSR details Risk Mitigation Measures which must be fully implemented, including the development, by the applicant, of standard operating parameters approved by the Coast Guard and coordinated with the Government of Canada to enable the safe and secure movement of LNG vessels through Canadian and U.S. waters. In addition, a WSR Risk Mitigation Measure includes development by the applicant of an Emergency Response Plan (ERP) as required by Section 311 of the Energy Policy Act of 2005, that is approved by the Commission and accepted by the Coast Guard to enable a comprehensive and coordinated response to an LNG emergency. As the WSR explains, the ERP is developed through a transparent, public process that actively involves the Coast Guard, appropriate agencies, and key officials of state and local governments. How this process applies to Canada and whether Canadian agencies will wish to be involved are issues as yet to be determined. However, as the WSR further explains, Downeast LNG must be able to adequately demonstrate that an effective security regime has been established during the Canadian portion of the vessel=s planned route prior to a loaded LNG vessel being allowed to transit to the facility.¶ . . .
- § Page D-9: . . . ¶The emergency services necessary to respond to a MCI should be considered in the development of the ERP and Cost-Sharing Plan, as discussed in responses to previous comments.¶ . . .

In addition, from the U.S. Coast Guard=s Redacted Version of the Downeast LNG Waterway Suitability Report, Section 2.4.3, *Iconic Value* comes the following statement: *¶In general, the law enforcement, public safety, and emergency response assets and capabilities in the U.S. and Canada are in keeping with the rural nature of the area ¶ minimally staffed, minimally equipped and trained, and limited in their ability to expand due to their small tax base.¶*

The Park Commission believes that, should the Park=s historic core lie within a Sandia Zone of Concern during an ¶emergency¶ anchorage or holding in Friar Roads, the above-quoted statements from Table D-1 should apply to Roosevelt Campobello International Park. Due to the absence of trained personnel, proper response equipment, and area medical facilities in such a remote area, the Commission believes that the Park=s historic core should be featured prominently in Downeast LNG=s emergency response planning. This planning should most certainly address how the mandated emergency response plan would include Park visitors, staff, and facilities. The

CO5-2

CO5-2 See response to comments NA4-224 and CO5-1.

CO5

emergency response plan should also address emergency medical care, fire-fighting capability, and potential evacuations from the Park over the limited traffic FDR International Bridge and through U.S. Customs.

CO5-2  
cont'd

The Park Commission continues to have concerns relating to the Park's status as a Class I Air Quality Area. Because of those concerns, the Commission appreciates and agrees with FERC staff's recommendation on Page 4-315, Section 4.11.1.4.5 Cumulative Impact Assessment: *"Our primary concern is the cumulative impact on the Roosevelt-Campobello International Park, the Acadia National Park and the Moosehorn NWR. The cumulative assessment should include existing and reasonably foreseeable emission sources in the region and should evaluate impacts to the NAAQS, Maine AAQS in Class I and II areas as well as Air Quality Related Values (AQRV) within the aforementioned Class I areas. Downeast should consult with the Maine DEP and the Federal Land Managers of the Class I areas to determine the AQRV's of concern for each Class I area. This cumulative impact assessment is required for our review and evaluation prior to the issuance of our final EIS. We therefore recommend that: Prior to the end of the draft EIS comment period, Downeast should perform a cumulative air impact analysis to assess impacts on air quality (NAAQS and Maine AAQS) in both Class I and Class II areas, and AQRV's within the Class I areas, and should file the results with the Secretary. The analysis should include both stationary and mobile emissions and vessel emissions along the transit route as well as the primary and secondary emissions from other existing or proposed pollution sources in the region."*

As noted on page 4-315, under 411.1.4.5 Cumulative Impact Assessment, paragraph 1, . . . "To address the concerns of the public in the region, we have requested that the applicant provide a cumulative air quality impact assessment. As yet, Downeast has not provided that assessment." . . . And in paragraph 2, is the following, . . . "This cumulative impact assessment is required for our review and evaluation prior to the issuance of our final EIS." . . .

The Park Commission believes that the cumulative air impact analysis mentioned above should have been available in the Draft Environmental Impact Statement. The availability of the analysis in the Draft EIS would have permitted the public and the Park Commission to comment on the analysis prior to release of the Final EIS.

CO5-3

In December of 1989, the Park Commission and the National Park Service (NPS) Air Quality Division (AQD) (now the Air Resources Division), entered into an agreement by which the AQD reviews "Prevention of Significant Deterioration" permit applications for new major pollution sources or proposed modifications to old pollution sources that have the potential to impact visibility and other air quality-related values at the Park. Review of permit applications comprises the following: (1) An analysis to ensure the use of the best available control technology to minimize emissions (2) the use of models that predict the dispersion of air pollution in the area of concern and (3) potential effects imposed by the project.

CO5-4

The agreement authorizes the AQD to submit routine comments on non-controversial projects for the Commission, with the understanding that they will notify the Commission, or its agent, before submitting the comments. Also acknowledged in the agreement is the Commission's desire to take an active part in the review of potentially controversial issues, such as adverse impact determinations. In such cases, the AQD will notify the Commission, or its designee, as soon as possible if they believe emissions from a proposed new or modified source may cause or contribute to an adverse impact on the air quality related values of the Park. In such cases the AQD will prepare technical review comments to give the Commission with the information it needs to make a policy judgment.

The Park Commission takes note of the following paragraph from Section 4.13 Cumulative Impacts, Precedent page 4-413: *"There are existing industrial and commercial uses in and around*

CO5-3 Comment noted. The cumulative air quality impact assessment filed by Downeast after issuance of the draft EIS was available for public review on FERC's website. Section 4.11.1.5 of the final EIS has been updated to include this analysis.

CO5-4 The Maine DEP has the primary jurisdiction over air emissions produced by the proposed project. The Maine DEP enforces its own regulations as well as EPA's federal requirements. Based on the potential to emit (PTE) calculations for the LNG terminal and operations, the Downeast LNG Project is considered a minor emission source. To comply with Maine DEP Chapter 115 requirements, Downeast must submit a minor source air emissions license application. The permit process requires a thorough review of project emissions to demonstrate they comply with applicable state and federal regulations and requirements, including the Maine State Implementation Plan. In response to our recommended condition 36 of the draft EIS, Downeast has provided us with the total criteria pollutant and greenhouse gas emissions (methane, CO<sub>2</sub>) produced by the LNG vessel and support vessels from the pilot station to the LNG terminal. Table 4.11.1.4.1 of the EIS has been modified accordingly.



CO5

*Passamaquoddy Bay and Washington County, including commercial fishing, tourism, salmon aquaculture, and commercial ports. In addition, there could be other LNG projects in the area, and tidal energy projects are proposed. Approval of the Downeast LNG Project would result in another industrial/commercial use of the Bay and another energy generating facility in the area [bold emphasis added] The Downeast LNG Project would not set a precedent for energy generation in the area."*

CO5-5

The Park Commission is unaware that the Downeast LNG Project would include an energy generating facility. If Downeast LNG's project would include an energy generating facility, FERC should include such a facility in its cumulative impact air quality considerations.

The Park Commission wishes to stress that air quality-related values include all those values possessed by a Class I area except those that are not affected by changes in air quality and include all those assets of an area whose vitality, significance, or integrity is dependent in some way upon the air environment. Those values include visibility and those scenic, cultural, biological, and recreational resources of an area that are affected by air quality.

The Park Commission also has concern for potential impacts to the Park's integral vistas, views perceived from within the Park of a specific landmark or panorama located outside the boundary of the Park and which have been designated by the United States Environmental Protection Agency. As the body managing the mandatory Class I area, the Park Commission identified and documented vistas associated with the Park and integral to the visitors' experience. Four of these vistas (Liberty Point, Friar's Head, Con Robinson's Point, and Roosevelt Summer Home) have been accepted by the U.S. EPA and the State of Maine as integral vistas and are afforded protection for visibility and other air quality-related values. The State of Maine, through its Department of Environmental Protection, developed a State Implementation plan that includes protection of the Park and its integral vistas. The State is responsible for that protection.

CO5-6

The Park Commission continues to have concerns for the potential adverse effects on tourism resulting from the visual impacts of large LNG tankers as seen from Park viewing areas. Should an LNG tanker be emergency-anchored in Friar Roads, a significant visual disruption would exist. (See page 8, attached image of freighter anchored in Friar Roads and within viewshed from Park Visitor Center and Roosevelt Cottage. This freighter is approximately 47% the length of a 912-foot LNG tanker and approximately 41% the length of a 1,050-foot LNG tanker.) Not only would a significant visual disruption exist and potentially keep fewer visitors from coming to or enjoying their visit to the Park, but because of the potential extension of the Sandia zones of concern into the historic core, potential visitors might choose not to visit the Park. In the Park's Natural Area, a visitor to Liberty Point, one of the Park's most visited and enjoyed viewing areas, would find a passing LNG tanker to be part, blocking succeeding portions of, and incongruent to the viewshed throughout the entire passage of the vessel from a point south of Grand Manan Island, New Brunswick to well north of a line drawn from Liberty Point to the Wolf Islands.

Visitors are drawn to the Roosevelt Campobello International Park not only to experience the Visitor Center and FDR Summer Home, but also to enjoy the Park's natural resources and scenic vistas. The Roosevelt family greatly appreciated the magnificent vistas of the region as they sailed the bays and inlets and walked along the headlands and beaches. Of great importance to the Park Commission, and part of the Commission's mandate, is that the Commission offer Park visitors a quality of experience similar to that enjoyed by Franklin Roosevelt and his family when they summered on Campobello. Panoramas from the Friar's Head observation deck, the beach below the Roosevelt Cottage, Liberty Point and other sites

CO5-5 The characterization of the Downeast LNG facility as an "energy generating facility" was broadly construed because the facility would regasify LNG and transport it via the sendout pipeline. Downeast does not propose to generate energy at the facility in the same manner as a power plant that uses a fuel source to produce electricity. Section 4.13 of the EIS has been modified to remove this statement.

CO5-6 See response to Comment CO5-1 regarding the restriction on anchorage of an LNG vessel in Friar Roads, and response to CO3-1 regarding potential impacts on tourism. Section 4.7.4 of the EIS discusses the project's impacts on visual resources in the United States and Canada. Several photo simulations include views from Liberty Point and St. Andrews. We believe the analysis of visual impacts is sufficient and impacts can be mitigated with the measures proposed by Downeast to reduce the visual impact of the facilities, such as storage tank color and vegetative buffers. We believe that the visual impact of the LNG vessels would be no different than the existing commercial vessel traffic that now passes the Park.

CO5

along the Park Natural Area=s eastern shore include an exceptional quality of landscapes and coastline, of bays, headlands, and islands. Intrusion of large LNG tankers into these and other Park vistas would have a profound impact on the aesthetic character of the Park and on the unique experience of the Park=s visitors.

The Park is a major tourist attraction in the Province of New Brunswick. Most of the people visiting the Park enjoy the spectacular unbroken views of rugged coastline, estuarine bays and open ocean, often the main purpose of their trip to the area. Many also enjoy watching waterfowl and seabirds and/or hiking to enjoy the scenic views from several locations along the trails and roadways of the Park. Tourism dollars attracted to the Park and the immediate area have a significant and positive /ripple/ effect on the economic health of the area.

The Park employs approximately 53 full-time and part-time or seasonal employees, about equally divided between citizens of Canada and the United States. The contribution of this payroll to the economic health of the communities of Campobello Island and Lunenburg is significant.

The Park Commission retains its concerns relating to the fact that, although impossible to quantify, a portion the area=s and the Park=s potential visitors will not come to the area and to Park if Downeast LNG=s project is completed and LNG tankers transit the waters off Campobello. Knowing that other area attractions aid in drawing visitors to the Park, the Park Commission has concern that significantly disruptive and negative effects on the local and regional tourism economy and marine-related commercial and recreational activities would reduce visitation to the area and thereby reduce visitation to the Roosevelt Campobello International Park - thus reducing the Park Commission=s ability to carry out its mandate of memorializing FDR.

Because the Commission=s floating wharf might be affected by its inclusion in a Sandia zone of concern (should an LNG tanker require anchorage or holding in Friar Roads), and because the floating wharf is used by Quoddy Link Marine=s passenger vessel in the transport of tour bus passengers between St. Andrews, New Brunswick and Campobello, the Commission also requests that the Downeast LNG Final EIS address potential disruption of use of the Commission=s floating wharf should an anchorage or holding in Friar Roads take place. Reductions in visitations resulting from bus tours being unable to adequately schedule boat trips to and from the Park are anticipated by the Park Commission.

The Commission also notes that in Section 4.7-Land Use, Recreation, and Visual Resources, page 4-214, 4.7.3.1 Waterway for Marine Traffic the Draft EIS states, /No ferry passenger ships transit this area./ This statement is referring to the /eastern route/, presumably on the eastern side of Grand Manan Island. If so, the Draft EIS is not acknowledging the passenger/vehicle ferry linking Blacks Harbor, New Brunswick to Grand Manan Island.

Respectfully submitted on behalf of the Roosevelt Campobello International Park Commission,

Paul B. Cole, III  
Executive Secretary/Superintendent

-6-

CO5-6  
cont'd

CO5-7

CO5-8

CO5-7 See response to Comment CO3-1. We believe that impacts on tourism, visual and cultural resources have been adequately addressed in the EIS and that the mitigation measures proposed by Downeast and recommended by FERC staff are sufficient to minimize any impacts on these resources.

CO5-8 See response to comment CO5-1 regarding the restriction on anchorage of an LNG vessel in Friar Roads. We do not expect any impact on the Roosevelt Campobello International Park=s floating wharf from LNG vessels transiting the waterway. According to the WSR, a Ports and Waterways Safety Assessment (PAWSA) was conducted in October 2006 to examine the risk factors along the waterway and evaluate potential measures to reduce risks. Participants in the PAWSA included representatives of the marine industry, pilots, tug operators, and passenger/ferry operators, among others. The PAWSA determined that recreational vessels, fishing vessels, and seasonal ferries connecting Deer Island, Eastport, and Campobello Island may fall within Zone 1, depending on their course but that this could be avoided by timing and course changes. In addition, pilots, ferry operators, and the majority of commercial fishermen and recreational boaters have extensive local knowledge of the waterway; the ferries operating in the area routinely work with the local pilots in arranging passing situations; and ferry schedules are seasonal but very well established and published. We believe that any impacts on the ferry between Blacks Harbor, New Brunswick and Grand Manan Island can be mitigated through advance notification of LNG vessel transits and coordination with ferry operators.

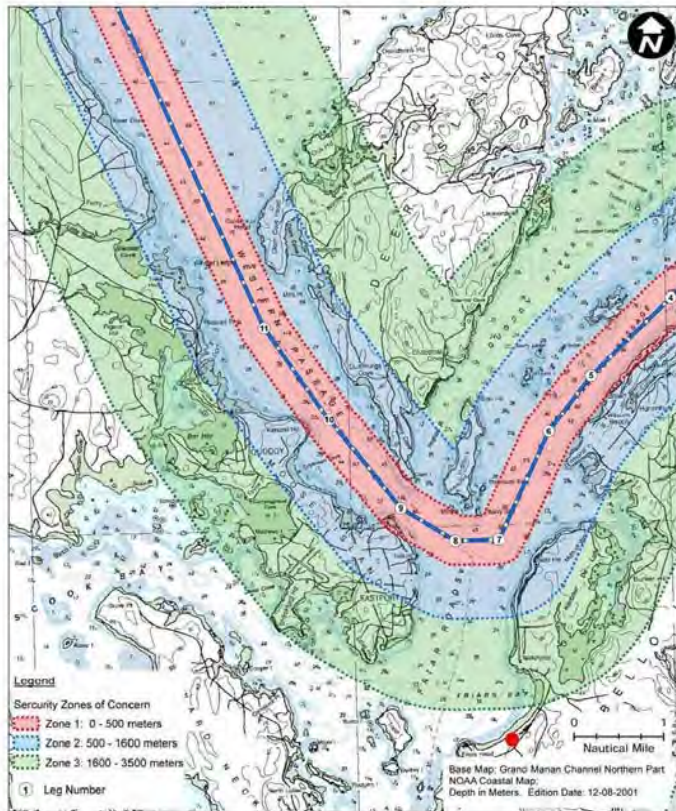
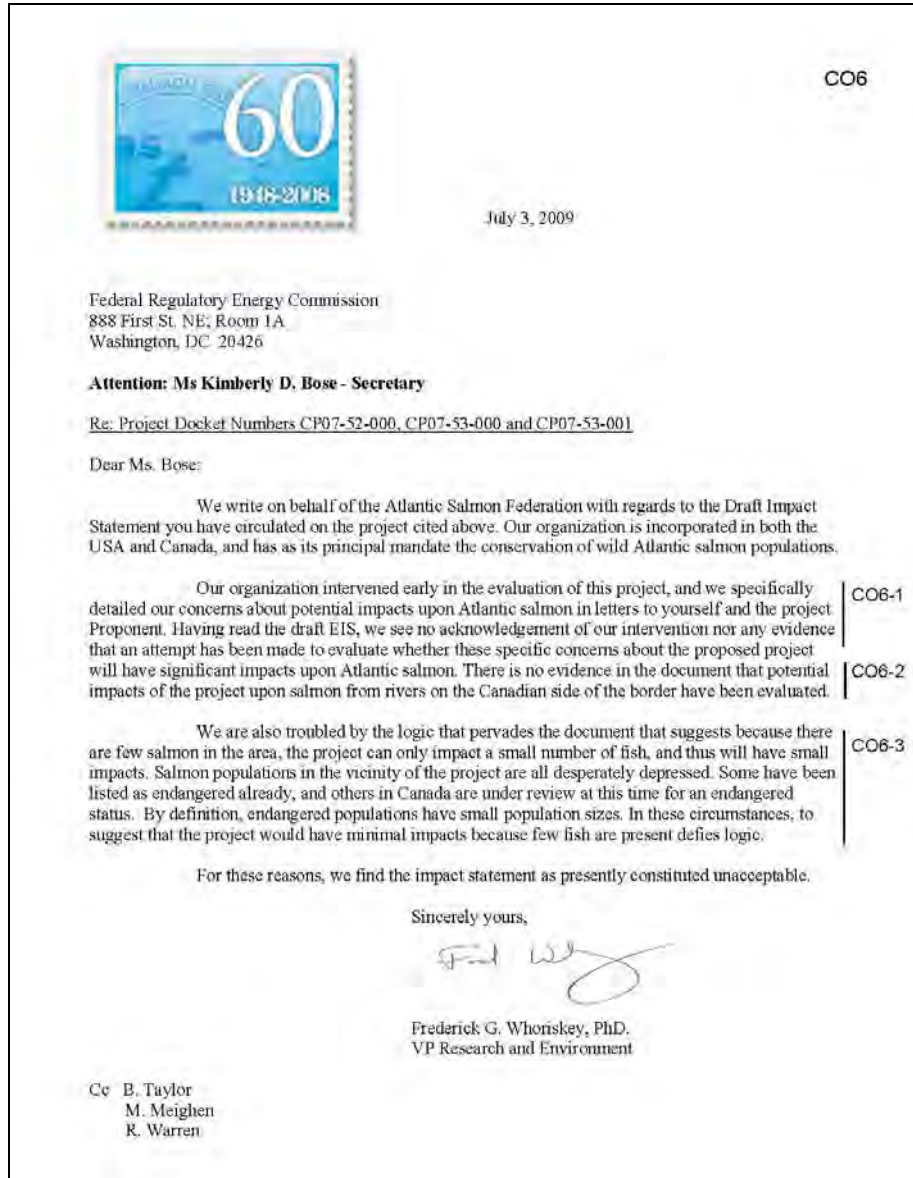


Figure F-3  
Downeast LNG Project  
Waterway for LNG Marine Traffic: Sheet 2 of 9

● Added red dot represents Park historic core.

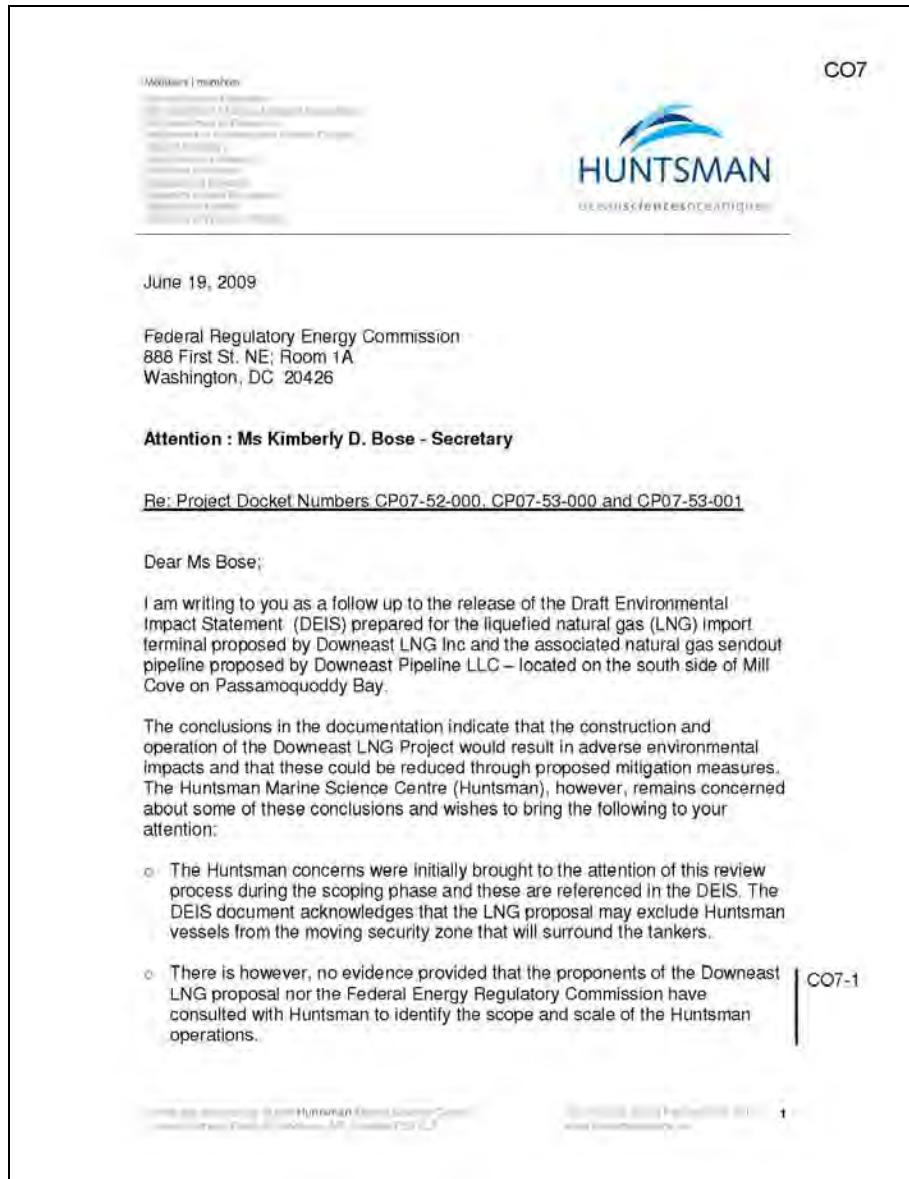


Freighter anchored in holding area in Friar Roads. This freighter is approximately 47% the size of a 912-foot LNG tanker and approximately 41% the size of a 1,050-foot LNG tanker. Franklin D. Roosevelt Summer Home is at right.



- CO6-1 Each commenter during the initial project scoping and intervenor was not listed by name in the draft EIS. However, table 1.4-1 summarizes issues identified and comments received during our public scoping process. The general issues identified by the Atlantic Salmon Federation during the scoping process are listed in the table under the topic of threatened and endangered species. Table 1.4-1 refers the reader to sections 4.6, 4.13.3, and Appendix C for further information. Impacts on Atlantic salmon are specifically addressed in sections 4.5 and 4.6 of the EIS, as well as in our Biological Assessment (appendix C of the EIS).
- CO6-2 We believe that comments in regard to the Atlantic salmon in Canadian waters are addressed in our EIS. Populations of Atlantic salmon in Canada that are most likely to be affected by the proposed project are those found in the waterway for LNG marine traffic. In section 4.6.2 of our EIS we indicate that Atlantic salmon would be present, but were unlikely to be affected by transiting LNG vessels. Our analysis of impacts in the draft and final EIS includes the LNG terminal site and LNG vessel transit route.
- CO6-3 LNG vessels transiting the waterway for LNG marine traffic are unlikely to affect Atlantic salmon. The most likely impacts associated with transiting LNG vessels include increased turbidity, increased sedimentation, noise, and light. These impacts and mitigations are adequately addressed in sections 4.5.2.1, 4.5.2.2, 4.6.2.1, and 4.6.2.2 of our EIS, as well as in our Biological Assessment (appendix C of the EIS).





CO7-1 Potential impacts on the Huntsman Marine Science Centre (HMSC) are discussed in section 4.7.3.1 of the EIS, which has been revised to include the HMSC's proposed expansion plans. The primary impacts on the HMSC, which is located approximately 2.2 miles northeast of the Downeast LNG Terminal, would be boating restrictions on access to Passamaquoddy Bay for education and research programs during LNG vessel transit to the Downeast LNG Terminal and visual impacts from viewing the LNG terminal across the Bay. We have addressed the impacts on marine traffic in the area in Section 4.7.3.1 based on input from the Coast Guard in the Waterway Suitability Report. Visual impacts are evaluated in section 4.7.4. While not specifically mentioned in section 4.7.4, the HMSC is in St. Andrews, New Brunswick, from which we determined there would be a moderate visual impact. Since the HMSC is to the northeast of the Downeast LNG Terminal LNG vessels transiting to the terminal would not pass by the HMSC. However, commercial shipping does pass by the HMSC going to and from the Bayside Terminal that is approximately six miles to the north of the HMSC in Brunswick Canada.

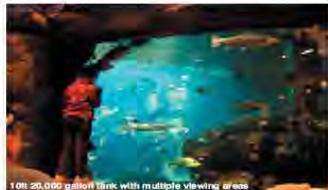


CO7

CO7-1  
cont'd

- o There is no evidence provided that the proponents of the Downeast LNG proposal have consulted with the Federal Government of Canada on behalf of Huntsman to identify the scope and scale of the Huntsman operations.
- o There is no evidence provided that the proponents of the Downeast LNG proposal nor the Federal Energy Regulatory Commission have attempted to quantify the impacts of this project on the Huntsman operations.
- o There is no evidence provided that the proponents of the Downeast LNG proposal nor the Federal Energy Regulatory Commission have identified mitigation measures or compensations for these impacts to the Huntsman operations.

To compound our concerns, the Huntsman operations have continued to evolve since the scoping process began. The current plans include the construction of a 20,000-square-foot Discovery centre on its Lower Campus property. It will



replace the existing Aquarium complex and will include a biodiversity orientation centre, a multiplex aquarium complex, a conference centre with live video-conferencing capabilities and an ocean energy exhibit.

The new facility will be a four-season tourist attraction and will complement other initiatives currently underway in the St Andrews/Charlotte County area. It will bolster the annual visitations to south-western New Brunswick.

The Huntsman has estimated that the total cost of the Discovery center Project will be approximately \$8.0 million.

The Huntsman is a registered, private, not-for-profit, research and science-based teaching institution located near the mouth of the Bay of Fundy in St Andrews, New Brunswick. The Huntsman was established in 1969 by a consortium of universities, government departments and private sector interests with the specific aim of facilitating collaboration between university, government research scientists and the industrial sector.

C07

Its research infrastructure is available to all scientists, including researchers outside of Canada. The Huntsman employs 32 fulltime equivalent personnel and has an annual activity base (contracts and programs) of approximately \$3,000,000.

Figure below is a map adapted from [www.encarta.msn.com](http://www.encarta.msn.com)



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Tel: 506.529.1200 | Fax: 506.529.1212  
[www.huntsmanmarne.ca](http://www.huntsmanmarne.ca)

C07

The Huntsman is home to the Atlantic Reference Centre (ARC), a research museum that houses the one of most complete collections of reference specimens of the North Atlantic Ocean ecosystem. The collection is used by taxonomists all over the world,

*The Huntsman's Mission:*

*To forward the advancement of marine sciences through high quality research,*

*To design and deliver superior educational experiences for all possible audiences,*

*To develop and implement elegant, innovative and achievable technical solutions for our public and private sector partners, and*

*To facilitate and stimulate the ongoing dialogue on ocean sciences among all our constituents and stakeholders.*

including for an international initiative known as the Barcode of Life Initiative (CBOL). This is a collection of research projects, organizations, and individuals devoted to developing DNA barcoding as a global standard for identifying species. Other barcoding projects have been launched by taxonomists working on other initiatives, such as the [Census of Marine Life](#), or by research teams or individual taxonomists.

The common threads that run through all of these projects and make them part of a coherent research initiative are:

- Open access to data: BOLI's central goal is the creation of a publicly accessible database of barcode data that anyone can use to identify organisms;
- Global participation. Biodiversity does not reflect national borders, and taxonomic research requires international cooperation. BOLI projects usually involve participants from many continents and they always involve international cooperation.

The Huntsman's formal education programs currently influence 2,000 students per annum, ranging from elementary school age to university graduate level. Students typically have a hands-on experience on the research vessel and work with the collection of marine specimens. Often it is the students first time on the ocean and they invariably leave with a sense of ownership of this resource.

The local area's economy is directly linked to the opportunities provided to those generating wealth for the nation from ocean resources. As traditional fisheries have declined, the development efforts have focused on finding meaningful alternate economic drivers. The Huntsman supports the development of a sustainable marine economy through its International Aquaculture Innovation Centre (IAC).

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CO7

The general public is also welcome on the Huntsman campus and have an opportunity to visit a small seasonal aquarium facility. This provides a mechanism to inform visitors to the region about Canada's east coast marine ecosystems. Although limited in stature and scope, it routinely welcomes 20,000 visitors per year.

In August of 2007, the Huntsman launched a \$ 20 million Capital Campaign—"Oceans Tomorrow". The Oceans Tomorrow campaign has been designed to revitalize the Huntsman's fixed assets and allow the organization to reposition itself for the future. The centerpiece of the Campaign is the establishment of a world-class ecotourism attraction for the Passamaquoddy Region. (please visit [www.huntsmanmarine.ca](http://www.huntsmanmarine.ca) for more details)

The new facility will be a **four-season** tourist attraction and will complement other initiatives currently underway in the St Andrews/Charlotte County area. It will bolster the annual visitations to south-western New Brunswick. However, to engender increases in tourist visits the new facility will build on the following strengths:

- The ocean agenda as a key economic driver for the Province of New Brunswick. It generates in excess of \$1 Billion in annual revenues from sectors such fisheries, farming (aquaculture), and transportation<sup>1</sup>.
- The Bay of Fundy and its natural basin design, the gravitational pull of the Moon and the forces of the North Atlantic Ocean. This results in a spectacular phenomenon that produces dramatic tidal cycles of 10 to 15 meters from low to high tide(s). This churning of the tides also produces an abundance of aquatic life that is unparalleled. The marine life in the Bay ranges from the microscopic plankton to the macroscopic whales.
- The natural scenery. **41% of the visitors to the Fundy Region report that the natural scenery was the factor most enjoyed during their visit.**<sup>2</sup>

Recognizing that tourism has been projected to rebound in the foreseeable future, the return on the investment made by Huntsman is predicated in being able to attract new visitors. The annual target is 50,000 visitors. The expanded local region will not provide these numbers. To reach this volume of traffic requires an influx of international and rest-of-Canada traffic. The drawing card will be the combination of tourism and education, with a chance to experience the marvels of the Bay of Fundy. This formula will allow the Huntsman to become a major tourist attraction for the St. Andrews region.

This tourism infrastructure investment will allow the Huntsman to execute its business plan for financial self sufficiency. It will also directly create additional full time positions associated with the Discovery centre and a series of seasonal

<sup>1</sup> Statistics adapted from [www.onb.ca](http://www.onb.ca)

<sup>2</sup> Fundy Coastal Drive 2005 Consumer Profile – NB Dept of Tourism and Parks

CO7

positions associated with the teaching and research activities. In addition, having established a four-season tourism venue, the Town of St. Andrews and the Charlotte County will incur a series of spin-off benefits.

The liquefied natural gas (LNG) import terminal proposed by Downeast LNG represents the development of a heavy industrial site. There is absolutely no question that the centerpiece of the Huntsman's revitalization strategy - the establishment of a world-class ecotourism attraction for the Passamaquoddy Region- will be negatively impacted by this proposal.

CO7-2

Wikipedia defines sustainable development as " a pattern of resource use that aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but also for future generations. The term was used by the Brundtland Commission which coined what has become the most often-quoted definition of sustainable development as development that "meets the needs of the present without compromising the ability of future generations to meet their own needs".

The Huntsman continues to work toward finding sustainable solutions to very real problems, such as access to renewable energy. We recently were asked by the Government of New Brunswick to help in the exploration of suitable ocean energy sites in the Bay of Fundy. We understand that the government of the State of Maine has also recently expressed interest in this type of initiative (see Maine Technology Asset Announcement 06-10-09). This is a sustainable development agenda.

The Huntsman does not dispute that there may be a good business case for the production and distribution of liquefied natural gas. There may also be a number of mitigation strategies for dealing with environmental concerns. However, when looking at the total cumulative risks that come with this activity, there is something wrong about concluding that proper sitting for this type of enterprise includes locations around Passamaquoddy Bay.

CO7-3

Thank you,



W.D. Robertson

Executive Director  
Huntsman Marine Science Centre

CO7-2 We addressed the impacts on recreation and tourism in section 4.7.3 (Existing Public, Recreation, and Special Uses) and section 4.8.2.3 (Tourism). While the Passamaquoddy Bay area is a very scenic area, there is industrial and commercial shipping activity associated with the Port of Eastport, Estes Head, and Bayside Terminal in New Brunswick Canada and in years past there had been a number of cannery operations along the shores of Passamaquoddy Bay. Commercial marine activities and the tourism industry have co-existed in the area for many years. We do not believe the addition of the proposed LNG terminal would significantly affect the character of the area beyond the existing industrial facilities such that there would be dramatic impact on ecotourism.

CO7-3 FERC staff does not select the site for the proposed LNG Terminal. The site is proposed by the project applicant, and we evaluate it on its own merits. This includes a review of reasonable site alternatives that meet the applicant's stated purpose for the project. Section 3.4 of the EIS provides our analysis of the site alternatives for this project, and we have concluded that these other sites do not have significant environmental advantages to the Mill Cove site. We have also determined that any adverse impacts resulting from the construction and operation of the Downeast LNG Project can be reduced to less-than-significant levels with the implementation of Downeast's proposed mitigation measures and the additional measures we recommend in the EIS.



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CO8



## Conservation Law Foundation

July 6, 2009

By Electronic Submission

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., N.E., Room 1A.  
Washington, DC 20426

RE: OEP/DG2E/Gas Branch 3  
Downeast LNG, Inc.  
Downeast Pipeline, LLC.  
Docket Nos. CP07-52-000,  
CP07-53-000, CP07-53-001

FERC/EIS 0231D  
Draft Environmental Impact Statement  
COMMENTS

Dear Secretary Bose:

The Conservation Law Foundation (CLF) respectfully submits the following comments on the draft Environmental Impact Statement (DEIS) prepared for the proposed Downeast LNG project in Robbinston, Maine. CLF is New England's largest regional environmental advocacy organization, with longstanding programs dedicated to marine conservation, natural resource protection, and clean air and climate change.

In the past, expansion of the natural gas supply in New England was considered an important step in the transition from fossil fuels and their harmful air emissions – and indeed, the region's current fleet of natural gas power plants will continue to play a key role in enabling the shut-down of the most polluting coal and heavy fuel-oil fired facilities. Today, however, the combination of a questionable LNG market and an expanding domestic natural gas production, the lifecycle greenhouse gas emissions associated with LNG relative to development of renewable energy resources and widescale implementation of energy efficiency measures, and the lack of a coordinated approach to energy facility siting and development, augur for a far more cautious approach to any further expansion of LNG infrastructure. As in previous comments on Downeast LNG's application (attached hereto), CLF continues to believe that the best approach to LNG terminal siting must be proactive, regional, and strategic. Most importantly, that approach must first answer the question of whether the need for any further LNG supply is necessary for the region. If it is not, then this project, and any other proposed LNG project in the region, does not meet the public interest under Section 3(a) of the Natural Gas Act nor can it articulate a legitimate project need as required for any EIS.

As an initial matter, the Downeast LNG project presents several significant safety and environmental issues. Because these issues will be addressed in proceedings before the Maine Department of Environmental Protection and the Maine Department of Conservation, among others, and CLF intends to participate in those proceedings, our comments on the DEIS do not address those issues. CLF's primary comments involve the

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NEW HAMPSHIRE: 27 North Main Street, Concord, New Hampshire 03301-4930 • 603-225-3060 • Fax: 603-225-3059

RHODE ISLAND: 55 Dorrance Street, Providence, Rhode Island 02903 • 401-351-1102 • Fax: 401-351-1130

VERMONT: 15 East State Street, Suite 4, Montpelier, Vermont 05602-3010 • 802-223-5992 • Fax: 802-223-0060

CO8-1

CO8-1 The NEPA document is not intended to be a determination of project need. It is the duty and authority of the FERC's Commission to determine if the project is in the public's convenience and necessity during its evaluation and review, prior to authorization. The FERC is not the proponent of the proposed project, and therefore does not define the project purpose and need. The purpose is defined by Downeast in its application to the FERC and we use the proponent's stated purpose in the project EIS. The purpose and need statement in the EIS serves as a disclosure of the applicant's stated purpose to which the FERC is responding and provides the basis for developing a reasonable range of alternatives. FERC neither endorses nor opposes Downeast's assertions of need.



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CO8

## Conservation Law Foundation

DEIS's failure to conduct a meaningful regional needs assessment, as most recently called for by Chairman Wellinghoff.<sup>1</sup> Before finalizing this DEIS, FERC staff must conduct an in-depth needs analysis in order to comply with the National Environmental Policy Act and the Natural Gas Act. In the absence of such a needs analysis and a finding that there is indeed a need for another LNG terminal to serve the region, it is inappropriate for FERC to take any further action on this or any other applications for new LNG projects in New England.<sup>2</sup>

CO8-1  
cont'd

## I. New England Regional Energy Needs and Environmental Impacts

New England is currently host to two of the nine existing LNG import terminals in the United States – the terminal in Everett, Massachusetts and the Northeast Gateway terminal, off the coast of Massachusetts. Another offshore LNG terminal, the Suez/Neptune terminal, is under construction in the same vicinity as the Northeast Gateway project and is scheduled for completion in 2010. Another facility even more relevant given its close proximity to Downeast LNG's proposed site is the recently completed Canaport LNG facility in St. John, New Brunswick, which received its first shipment of LNG this June. All of these facilities are intended to service the Northeast and combined can provide up to 3.2 billion cubic feet (bcf) per day of natural gas for the region. Given this existing infrastructure to meet the needs of the Northeast, there is good reason to question whether additional massive LNG terminal infrastructure is needed here. Indeed, several years ago when only the Everett facility was operational and the other projects just proposals, both former FERC Chairman Pat Wood and studies by the New England Governor's Conference<sup>3</sup>, among other sources, concluded that only one or two of these projects were needed to meet the region's projected energy needs.

CO8-2

CO8-2 See response to Comment CO8-1. Section 3 of the Downeast EIS includes a complete discussion of alternatives, including all of the projects mentioned by the commenter.

More recently, the Energy Information Administration's (EIA) Annual Energy Outlook for 2009 (EIA 2009 Outlook), projects that natural gas use in the United States will increase annually by 0.2 percent per year through 2030, although that total use in 2030 remains below the level of natural gas use in 2000. Moreover, that increase in use is projected to be met by a 22 percent increase in domestic production. Indeed, *imports* of natural gas are projected to *decline* by 16 percent over that same period of time. Perhaps even more importantly, the EIA projects the annual increase in natural gas consumption in the Northeast region over that same time period to be 0 percent. That figure is worth repeating – EIA projects there to be *no* annual increase in natural gas use in the Northeast for the period through 2030, the very time frame the Downeast LNG project intends to operate. Even without the projected increase in domestic production, the EIA 2009 Outlook strongly suggests that there is no need for this or any other LNG project to serve the Northeast.

CO8-3

CO8-3 See response to Comment CO8-1.

<sup>1</sup> In comments made on February 13, 2009, Chairman Wellinghoff, citing significant domestic natural gas reserves, stated that he didn't know how much if any LNG would be needed to supply the U.S. natural gas market in the near term. He also said that FERC ought to conduct in-depth analyses of regional gas market conditions before granting permits to construct future LNG import terminals. See, Platt's LNG Daily, February 13, 2009.

<sup>2</sup> As set forth below, this detailed and comprehensive needs analysis must be conducted under the umbrella of a programmatic EIS, as called for in CLF's original scoping comments and in comments CLF recently submitted by CLF in connection with the proposed Weaver's Cove Energy LNG project in Mount Hope Bay. See CLF March 4, 2009 letter, Docket No. CP04-36-005 (attached). With respect to the DEIS for Downeast LNG, CLF agrees with FERC staff's decision to include the impact not just from the "send out" pipeline from the proposed LNG facility to the existing Maritimes and Northeast pipeline in Baileyville, but also the significant expansion of the M&N pipeline that would be necessary to accommodate *any* new LNG imports in the region as well as staff's decision to analyze projected greenhouse gas emissions from the project. CLF strongly urges FERC's state and federal counterparts to do the same in their review of environmental impacts and permit processing for this project, although with respect to the analysis of greenhouse gas emissions, that analysis must be based on the lifecycle of the LNG that is to be extracted, liquefied, transported, and regasified, and not just the construction and operation of the project itself.

<sup>3</sup> Meeting New England's Future Natural Gas Demand: Nine Scenarios and Their Impacts, A Report to the New England Governors by The Power Planning Committee of The New England Governor's Conference, Inc. March 1, 2005, at vii.

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CO8

## Conservation Law Foundation

Chairman Wellinghoff made just this point in the AES Sparrows Point matter this past January. Writing in dissent, then Acting Chairman Wellinghoff pointed out that the Sparrows Point LNG project is “not needed to serve the energy needs of the Mid-Atlantic and South Atlantic regions” and that the “future energy needs of these regions can be better met with alternative resources, such as domestic natural gas infrastructure and renewable and distributed energy resources.” Statement of Commissioner Jon Wellinghoff on AES Sparrows Point LNG Terminal & Mid-Atlantic Express Pipeline, January 15, 2009 Docket Nos. CP07-62-000 – 65-000. In conclusion, Chairman Wellinghoff stated “AES’s willingness to invest, without financial subsidies, is an important indicator of market-based need for the project. As stated above, however, that fact alone is not sufficient to outweigh the unique supply and demand, environmental, and community issues presented by LNG projects. Based on my consideration of all of these factors, I conclude that the Sparrows Point Project is not in the public interest.” *Id.*

The numerous LNG terminal sites promoted in Maine, Massachusetts, and the Maritimes have been advanced on a community-by-community basis and not as part of a coherent strategy for evaluating the overall need for additional LNG import capacity in New England, nor are they based on rigorously defined criteria for identifying potential LNG terminal or deepwater port sites. This ad hoc approach has pitted New England, and in this case Maine and New Brunswick, communities against one another in wrestling with the merits and the risks of specific proposals.

Moreover, in the absence of a comprehensive and sensible federal approach to evaluating regional needs and a proactive approach to facility siting, state agencies and local communities have been forced to expend scarce resources on reviews of projects that have forced such expenditures solely by their position in the “first come, first served” queue that is the reality of the system by which LNG projects are allowed to advance. One need look no further than the Downeast LNG project, which was subject to a weeklong administrative adjudication before the Maine Board of Environmental Protection and then sought to withdraw its application when it appeared that the BEP was poised to deny it. The request to withdraw the application was eventually granted due to Downeast LNG’s failure to secure right, title and interest for a portion of the project, resulting in the waste of significant resources of not only the State of Maine but many other parties who had intervened in the proceeding.

CO8-4

CO8-4 See response to comments CO7-3 and CO8-1.

#### NEPA and the Natural Gas Act Require a Regional LNG Needs Analysis Before Site-Specific Proposals Are Considered

It goes without saying that any new LNG terminal in New England should be sited fairly, strategically, securely, and in an environmentally protective manner. More fundamentally important, however, is the fact that any new facilities must be based on documented need. New or expanded LNG import facilities represent substantial long-term commitments of capital and present significant potential environmental impacts. Therefore, new facilities should not be approved unless there is a clearly demonstrated need for the facility and a very high degree of confidence that the facility is sited in the “right” location.

For many years CLF has called on FERC to conduct a regional analysis of energy needs and potential sources of supply for New England in order to guide FERC’s analysis under the Natural Gas Act and the National Environmental Policy Act (NEPA). *See, e.g.,* CLF letter April 17, 2006. As we have explained, such regional analysis should include the potential for meeting demand through efficiency and conservation, and options for increasing supply through increased pipeline capacity. Only if such an analysis determines that new LNG importation is required, should the FERC undertake to determine where a terminal meeting rigorous environmental standards could be safely constructed and operated. Such analysis is critically important because the decision to license an individual facility is in essence a siting decision for the region, and would likely foreclose other potentially less environmentally harmful options for meeting the region’s energy needs.

CO8-4  
cont’d

CLF: “Defending the Law of the Land”

3

## Conservation Law Foundation

## NEPA

NEPA requires FERC to determine the need for the Project up front, which can only reasonably be assessed in the context of regional energy supply and demand. Moreover, producing a programmatic environmental impact statement (PEIS) is required by NEPA, by applicable regulations promulgated pursuant to NEPA, and by the relevant case law in a situation where, as here, one large project or several related projects will have cumulative or synergistic environmental consequences.<sup>4</sup>

Preparing a PEIS in an appropriate case is an important way for an agency to carry out NEPA's broad mandate. When enacted, NEPA was considered "the most important and far-reaching environmental and conservation measure ever enacted by the Congress." 115 Cong. Rec. 40,416 (Dec. 20, 1969). It was a "comprehensive national [environmental] policy[.]" S. Rep. No. 91-296, at 5 (1969) which would henceforth require a detailed Environmental Impact Statement (EIS) be done on all future major Federal projects. 42 U.S.C. § 4332(2)(C). The concept of a PEIS had its origins in a Supreme Court case which held that where several projects or potential projects "will have a cumulative or synergistic environmental impact upon a region . . . their environmental consequences must be considered together." *Kleppe v Sierra Club*, 427 U.S. 390, 410 (1976) (emphasis added).

As noted in our scoping comments, the Downeast LNG Project should trigger a PEIS, in significant part because the Project is intended to meet New England region-wide energy needs. FERC has acknowledged that potential alternatives to the Project include other pending land-based and offshore LNG terminal proposals and in particular the proposed Calais LNG project. All these potential options vary widely in characteristics that can dramatically affect environmental impacts.

The reason why a programmatic EIS is so crucial in this case is that FERC's decision to approve this Project will have inevitable, far-reaching effects on other potential projects in the Northeast. In the narrowest and most immediate sense, FERC's approval of one project may have the effect of precluding other projects from coming to fruition. In that event, the importance of choosing an alternative with the fewest adverse environmental impacts is obvious. In the alternative, it is possible that multiple projects increasing New England's supply of natural gas may be approved and built but that the market will only economically support some, but not all, of the newly built facilities. New England would then be faced with a truly terrible situation – suffering the potentially severe environmental impacts from the construction of a plant or plants the viability of which cannot be sustained by the market.

<sup>4</sup> In situations similar to the one here presented courts have repeatedly reversed agency decisions not to produce a PEIS. *City of Carmel-By-The-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142 (9th Cir. 1997) (holding that agency's EIS was satisfactory in every respect except the lack of review of cumulative impacts); *City of Tenakee Springs v. Clough*, 915 F.2d 1308 (9th Cir. 1990) (holding that where several foreseeable similar projects in a geographical region may have a cumulative impact a PEIS must be produced); *LaFlamme v. Fed. Energy Regulatory Comm'n*, 842 F.2d 1063 (9th Cir. 1988) (reversing FERC's decisions not to produce a programmatic EIS and not to grant a rehearing), *opinion amended*, 852 F.2d 389 (9th Cir. 1988) (suspending license previously granted by FERC and instructing FERC not to reissue license until and unless programmatic EIS is produced); *Sierra Club v. U.S.*, 23 F. Supp.2d 1132 (N.D. Ca. 1998) ("Where there are large scale plans for regional development, NEPA requires both a programmatic and site-specific EIS." [internal quotation marks and citation omitted]); *Nat'l Wildlife Fed'n v. Benn*, 491 F. Supp. 1234 (S.D.N.Y. 1980) (granting summary judgment to environmental plaintiffs only on claim that defendant agencies had failed to produce a programmatic EIS); *Am. Pub. Transit Assoc. v. Goldschmidt*, 485 F. Supp. 811 (D.C.D.C. 1980) (granting summary judgment in favor of plaintiff environmentalists on issue of programmatic EIS).

CO8-5

CO8-5 See response to comments CO7-3 and CO8-1. FERC evaluates individual projects as they are proposed by the proponents. There is no requirement to prepare a programmatic EIS to address multiple projects proposed in the same region. However, as noted we do evaluate other projects as potential alternatives to a proposed project, and evaluate the potential cumulative effects if all projects were to be approved and eventually constructed. FERC's approval of one or several LNG facilities indicates that the Commission has determined those projects to be in the public's interest. The approval of one project does not preclude the construction of other projects. The viability of a project or projects is determined by the market. It does not make economic sense that multiple projects increasing New England's supply of natural gas would be built without market support. Section 3 and 4.13 of the final EIS have been updated to describe that a number of the previously proposed LNG projects in the region have been cancelled or are no longer actively pursuing authorizations.

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CO8

## Conservation Law Foundation

There are today multiple projects proposed to help address New England's future energy needs, including natural gas. NEPA requires producing a PEIS that first analyzes the need for increased supply and then generic attributes that may be desirable (or undesirable) for projects to increase supply (such as, for LNG import terminals, population density, berth depth, impacts on existing uses, and so forth) and only then compares, contrasts, and considers the environmental pros and cons of potential alternatives. This is because "NEPA emphasizes the importance of coherent and comprehensive up-front environmental analysis to ensure informed decision making to the end that 'the agency will not act on incomplete information, only to regret its decision after it is too late to correct.'" *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (quoting *Marsh v. Oregon Natural Res. Def. Council*, 490 U.S. 360, 371 (1989)).

CO8-5  
cont'd

It is important to note that even though several LNG projects have been approved and even constructed and put into operation in the past few years, it is not too late to undertake a PEIS now. Indeed, the need for a PEIS is even more urgent given that the new LNG capacity in the region has significantly diminished if not eliminated the need for any further LNG infrastructure in the foreseeable future, yet several massive LNG projects nonetheless are still seeking approval (including the Weaver's Cove Energy LNG project in Mount Hope Bay as well as the Downeast and Calais projects in Maine).

## Natural Gas Act

Under Section 3(a) of the Natural Gas Act, FERC is required to examine all relevant factors bearing on the Project's consistency with the public interest. According to the Act, importation of natural gas requires a license from FERC, which "[t]he Commission shall issue...upon application, unless, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest." 15 U.S.C. § 717b (emphasis added). FERC's regulations require a Section 3 applicant to demonstrate that a construction project for the purposes of importation "is not inconsistent with the public interest." 18 C.F.R. § 153.7(c)(1).

The Supreme Court has held that FERC's determination whether a facility is in the public interest "can be made only after an exploration of all issues relevant to the 'public interest.'" *Udall v. Fed. Power Comm'n*, 387 U.S. 428, 450 (1967) (emphasis added):

The grant of authority to the Commission to alienate federal water resources does not, of course, turn simply on whether the project will be beneficial to the licensee. Nor is the test solely whether the region will be able to use the additional power. The test is whether the project will be in the public interest. And that determination can be made only after an exploration of all issues relevant to the "public interest," including future power demand and supply, alternate sources of power, the public interest in preserving reaches of wild rivers and wilderness areas, the preservation of anadromous fish for commercial and recreational purposes, and the protection of wildlife.

See also, *Confederated Tribes and Bands of Yakima Indian Nation v. FERC*, 746 F.2d 466, 470 (9th Cir. 1984) (FERC grant of license reversed for failure to meet obligation to study the effect of the project on the fishery resource).

Thus, in order to make a reasonable determination with respect to whether any LNG terminal project – including this one – is in the public interest, FERC first must assess whether there is a need for the new LNG import capacity, among other considerations. Even if the answer is in the affirmative, FERC still must ensure that the benefits of the project will outweigh the impacts and that the project as a whole is in the public interest.

CO8-6

FERC staff should demand that the applicant provide solid support for its conclusion that New England's gas demand can not be met through other gas supply scenarios, such as importation from already approved and pending onshore and offshore terminals in Maritime Canada and southern New England or a combination of

CO8-6 See response to Comment CO8-1. Section 3.0 of the Downeast EIS evaluates conservation, increased efficiency, renewable energy sources, and alternative gas supply sources. We believe conservation measures could play a role in reducing energy consumption and renewable energy sources could supply some of the New England region's energy needs; however, it is not possible to predict whether these alternatives could replace or significantly offset potential future demand for natural gas supplies in New England.

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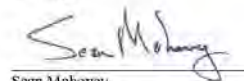
## Conservation Law Foundation

such additional supply from efficiency measures, demand-side management, or development of renewable energy.

One final point – New England's electricity planners are urging a reduction in the region's reliance on natural gas – New England "need[s] to diversify the types of fuels used to generate electricity and decrease the region's dependence on natural gas"<sup>1</sup> and the future demand for LNG in New England is uncertain at best and likely to decline. This is particularly true as the New England region focuses on energy efficiency and demand side management as the most cost effective and environmentally benign alternatives to meeting the region's energy needs. It is critical then that FERC ensure that there is a clear and convincing need for this project and that there are no other viable alternatives with less environmental impacts that could meet that need. The current DEIS does not do that.

CO8-6  
cont'd

Sincerely,



Sean Mahoney  
Greg Cunningham

Conservation Law Foundation  
47 Portland Street, Suite 4  
Portland, ME 04101  
207-210-6439

<sup>1</sup> ISO-NE New England Electricity Scenario Analysis, August 2, 2007, p.1, citing to 2006 Regional System Plan (Holyoke, MA: ISO New England, October 26, 2006) Section 6, and 2005 Regional System Plan (Holyoke, MA: ISO New England, October 20, 2005) Section 5.



## CONSERVATION LAW FOUNDATION

March 4, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington, D.C. 20426

Re: **Weaver's Cove Energy LNG Project – Mt. Hope Bay Location**  
FERC Docket No. CP04-36-005

Dear Ms. Bose:

The Conservation Law Foundation (CLF) appreciates this opportunity to submit comments regarding the application filed by Weaver's Cove Energy, LLC ("Weaver's Cove") pursuant to Section 3 of the Natural Gas Act (NGA) to amend the certificate granted to it on July 15, 2005 in FERC Docket No. CP04-36-000. Weaver's Cove now proposes to construct and operate a so-called "offshore" berth<sup>1</sup> for receiving and unloading LNG tankers in Mount Hope Bay, and a related system to pipe LNG (in liquid form, not re-gasified) from this LNG tanker berth to an LNG terminal in Fall River, with a proposed in-service date of December 2014.

From its inception, the Weaver's Cove LNG project has been characterized by fundamental flaws in terms of its environmental and public safety impacts.<sup>2</sup> The new "offshore berth" proposal is no different in this regard. Among other things, the Project would (1) entail the regular transit of fully-laden LNG tankers along dozens of miles of inland waterways that are heavily used and have densely settled shorelines; (2) undermine long-fought and hard-won progress in restoring the natural resources of Mount Hope Bay<sup>3</sup> – including but not limited to

<sup>1</sup> Typically, "offshore" LNG terminals are those located in federal waters and subject to the jurisdiction of the United States Maritime Administration rather than FERC. From CLF's perspective, the proponent's characterization of the Weaver's Cove Project as an "offshore" LNG terminal is inapt and misleading, given the Project's location in an inland waterway only about one mile from shore.

<sup>2</sup> CLF's concerns regarding the version of the LNG project previously proposed by Weaver's Cove are extensively reflected in FERC Docket No. CP04-36-000 and the related federal court appeal (*CLF v. Federal Energy Regulatory Commission*, before the United States Court of Appeals for the First Circuit, Docket Nos. 06-1204 and 06-2147).

<sup>3</sup> See, e.g., Order Denying Review, September 27, 2007, *In re Dominion Energy Brayton Point LLC*, United States Environmental Protection Agency Environmental Appeals Board, NPDES Appeal No. 07-01.

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critical winter flounder habitat – as a result of substantial dredging activities, anticipated entrainment and impingement of fish eggs and larvae through LNG vessel water intake structures, and the introduction of invasive species; (3) cause significant long-term damage to the natural resources of Mt. Hope Bay and the Taunton River<sup>4</sup> through the installation and operation of a 4-mile long cryogenic pipeline to bring LNG in its liquid form from the vessel berthing site to a land-based storage facility in Fall River; and (4) exacerbate local air pollution, potentially exceeding one or more federal air quality standards (e.g., for PM<sub>10</sub>). From our perspective, the Project continues to be one of the most fundamentally flawed LNG terminal projects ever proposed in the Northeast and perhaps the nation. FERC's issuance in 2005 of a certificate for the original project serves as one of the most poignant examples of the extraordinary flaws in the nation's LNG terminal siting regime. These flaws include the "first-come, first-served" system by which LNG projects have been allowed to advance without regard to their relative impacts as compared to other projects; the lack of any clear coordination between the federal government agencies (FERC and the Coast Guard) responsible for overseeing land-based and offshore LNG projects, respectively; and the absence of the obvious, sensible first step of taking stock of the need for any LNG projects before rushing to approve them – leaving the question of need up to the market to decide.<sup>5</sup>

Thus, while the environmental and public safety impacts of the Weaver's Cove LNG project are considerable and continue to raise significant concerns that should be fully vetted through rigorous and comprehensive review under NEPA and the Natural Gas Act,<sup>6</sup> CLF's comments here are focused on the need for FERC to take a new, thoughtful approach to considering the Weaver's Cove LNG project and other LNG projects in the region. Now, more than ever before, it is critically important to take a hard look at whether there is a need for additional LNG infrastructure in the region *before* expending substantial resources on reviewing the particular attributes of this or any other specific project.

New England is currently host to two of the nine existing LNG import terminals in the United States, with a third under construction and a fourth nearing completion in an adjacent Canadian Maritime Province. Given that one new offshore LNG project (Excelerate/Northeast Gateway)

<sup>4</sup> The Taunton River notably has been proposed for permanent protection under the federal Wild & Scenic Rivers Act pursuant to legislation that is pending but has not yet been enacted. Efforts to secure this protection were commenced long before the Weaver's Cove LNG Project ever was proposed, and if successful will require heightened standards for the protection of the Taunton River's natural resources that may well preclude the dredging and other activities required by the Project. 16 U.S.C. § 1278.

<sup>5</sup> Concerns regarding such an approach have been raised by CLF and many others in various LNG siting proceedings, and recently were echoed by Acting FERC Chairman Wellinghoff in his dissent on the AES Sparrows Point Certificate issued in January 2009. As the Commissioner pointed out in his January 15, 2009 "Statement of Commissioner Jon Wellinghoff on AES Sparrows Point LNG Terminal & Mid-Atlantic Express Pipeline" ("January 15, 2009 Wellinghoff Statement") explaining his dissenting vote on the Certificate, the Sparrows Point LNG Project was approved even though (i) it "is not needed to serve the energy needs of the Mid-Atlantic and South Atlantic region;" (ii) "the future energy needs of these regions can be better met with alternative resources, such as domestic natural gas infrastructure and renewable and distributed energy resources;" and (iii) "environmental and community concerns [were not] fully and fairly evaluated."

<sup>6</sup> As noted in the discussion at p. 8 *infra*, particularly rigorous scrutiny should be applied to the unprecedented four-mile cryogenic LNG pipeline that Weaver's Cove now proposes.

CLF, "Protecting New England's Environment"  
-7-

20090706-5066 FERC PDF (Unofficial) 7/6/2009 3:15:36 PM

CO8

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has become operational off the coast of Massachusetts during the time the Weaver's Cove LNG project has been pending, another (Suez/Neptune) is under construction nearby, and the Canaport LNG project in New Brunswick is near completion (with expected throughput capacity of up to 1 billion cubic feet (bcf) per day of natural gas to be supplied to the Northeast via an expanded Maritimes & Northeast pipeline), there is good reason to question whether additional massive LNG terminal infrastructure is needed here. And even if this question is somehow satisfied in the affirmative, FERC should at least then undertake a comparative analysis of proposed LNG projects and reasonable alternatives – including energy efficiency, conservation and renewable energy – to fashion a result that is in the public interest consistent with the Natural Gas Act.

## Background Regarding Conservation Law Foundation:

CLF is a public interest advocacy organization that works to solve the environmental problems that threaten the people, natural resources and communities of New England. Founded in 1966, CLF is a nonprofit, member-supported organization. CLF promotes clean, renewable and efficient energy production in New England and has an unparalleled record of advocacy on behalf of the region's environmental resources. As part of its more than 40-year legacy in the New England region, CLF has prevented drilling for oil and gas on Georges Bank, led the legal effort to clean-up Boston Harbor and other major coastal estuaries, fought to reduce damaging off-road vehicle use on the beaches and dunes of the Cape Cod National Seashore and successfully advanced legal strategies to restore groundfish to the Gulf of Maine and southern New England waters.<sup>7</sup>

Although CLF has viewed natural gas as an important transitional fuel that is cleaner burning than coal or fuel oil, CLF repeatedly has urged the federal government to take a proactive approach to the siting of LNG facilities, and has testified on numerous occasions (including before Congress) regarding the need for coordinated regional analysis of the demand for natural gas and comparative analysis of LNG terminal proposals.

In the absence of a comprehensive and sensible federal approach to siting, state agencies and local communities have been forced to expend scarce resources on reviews of projects that have forced such expenditures solely by their position in the queue. CLF has been involved in reviewing all of the individual LNG terminal proposals in New England. We have opposed particularly flawed LNG project proposals such as the Weaver's Cove LNG project and the now-abandoned Outer Brewster Island LNG project that had been proposed on state and federal parkland in the Boston Harbor Islands. We also carefully scrutinized the two deepwater LNG terminals (Excelerate/Northeast Gateway and Suez/Neptune) off the coast of Massachusetts, and concluded that these projects entailed far fewer environmental and public safety impacts than the Weaver's Cove LNG project or LNG projects proposed for Passamaquoddy Bay in Maine.

<sup>7</sup> *Conservation Law Foundation v. Clark*, 594 F. Supp. 1373 (D.Mass. 1984); *Conservation Law Foundation v. Secretary of the Interior*, 790 F.2d 965 (1st Cir. 1986); *Conservation Law Foundation v. Clark*, 590 F. Supp. 1467 (D.Mass. 1984); *Conservation Law Foundation v. Metropolitan District Commission*, 757 F. Supp. 121 (D.Mass. 1991); *Conservation Law Foundation v. Evans*, 209 F. Supp.2d 1 (D.D.C. 2001); *Conservation Law Foundation v. Evans*, 203 F.Supp.2d 27 (D.D.C. 2002); *Conservation Law Foundation v. Evans*, 211 F. Supp.2d 55 (D.D.C. 2002).

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-8-

20090706-5066 FERC PDF (Unofficial) 7/6/2009 3:15:36 PM

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In addition, CLF has continued to advocate successfully to promote policies, programs and projects that provide reasonable alternatives to fossil fuels, including renewable energy, energy efficiency and energy conservation.<sup>8</sup>

#### THE NATURAL GAS ACT AND NEPA REQUIRE A REGIONAL LNG ANALYSIS BEFORE SITE-SPECIFIC PROPOSALS ARE CONSIDERED.

It goes without saying that any new LNG terminal in New England should be sited fairly, strategically, securely, and in an environmentally protective manner. More fundamentally important, however, is the fact that any new facilities must be based on documented need. New or expanded LNG import facilities represent substantial long-term commitments of capital and present significant potential environmental impacts. Therefore, new facilities should not be approved unless there is a clearly demonstrated need for the facility and a very high degree of confidence that the facility is sited in the "right" location.

CLF for many years has called on FERC to conduct a regional analysis of energy needs and potential sources of supply for New England in order to guide FERC's analysis under the Natural Gas Act and the National Environmental Policy Act (NEPA). *See, e.g.*, CLF letters of September 20, 2004 and January 21, 2005. As we have explained, such regional analysis should include the potential for meeting demand through efficiency and conservation, and options for increasing supply through increased pipeline capacity. If new LNG importation is required, the analysis should determine where a terminal meeting rigorous environmental standards could be safely constructed and operated. Such analysis is critically important because the decision to license an individual facility is in essence a siting decision for the region, and would likely foreclose other potentially less environmentally harmful options for meeting the region's energy needs.

#### The Natural Gas Act:

Under Section 3(a) of the Natural Gas Act, FERC is required to examine all relevant factors bearing on the Project's consistency with the public interest. According to the Act, importation of natural gas requires a license from FERC, which "[t]he Commission shall issue...upon application, *unless*, after opportunity for hearing, it finds that the proposed exportation or importation will not be consistent with the public interest." 15 U.S.C. § 717b (emphasis added). FERC's regulations require a Section 3 applicant to demonstrate that a construction project for

<sup>8</sup> One important such development was the enactment in 2008 of the Massachusetts Green Communities Act, which among other things amends existing laws to require Massachusetts utilities to (1) purchase 1% more electricity from new renewable energy generation sources each year (so that by 2025, 20% of the electricity supplied to Massachusetts consumers must come from such sources); and (2) procure cost-effective clean demand-side resources (energy efficiency and conservation measures) as resources of first recourse before procuring more expensive electric or natural gas supplies. Chapter 169 of the Acts of 2008. These measures are consistent with Massachusetts Governor Deval Patrick's commitment to meet all new load growth with demand-side resources. *See, e.g.*, Executive Order 484 ("Leading by Example – Clean Energy and Efficient Buildings").

CLF, "Protecting New England's Environment"  
-4-

20090706-5066 FERC PDF (Unofficial) 7/6/2009 3:15:36 PM

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the purposes of importation "is not inconsistent with the public interest." 18 C.F.R. § 153.7(c)(1).

The Supreme Court has held that FERC's determination whether a facility is in the public interest "can be made only after an exploration of *all* issues relevant to the 'public interest.'"  
*Udall v. Fed. Power Comm'n*, 387 U.S. 428, 450 (1967) (emphasis added):

The grant of authority to the Commission to alienate federal water resources does not, of course, turn simply on whether the project will be beneficial to the licensee. Nor is the test solely whether the region will be able to use the additional power. The test is whether the project will be in the public interest. And that determination can be made only after an exploration of all issues relevant to the "public interest," *including future power demand and supply*, alternate sources of power, the public interest in preserving reaches of wild rivers and wilderness areas, the preservation of anadromous fish for commercial and recreational purposes, and the protection of wildlife.

*See also, Confederated Tribes and Bands of Yakima Indian Nation v. FERC*, 746 F.2d 466, 470 (9th Cir. 1984) (FERC grant of license reversed for failure to meet obligation to study the effect of the project on the fishery resource).

Thus, in order to make a reasonable determination with respect to whether any LNG terminal project – including this one – is in the public interest, FERC first must assess whether there is a need for the new LNG import capacity, among other considerations. Even if the answer is yes, FERC still must ensure that the benefits of the project will outweigh the impacts and that the project as a whole is in the public interest.

#### The National Environmental Policy Act (NEPA):

NEPA likewise requires FERC to determine the need for the Project up front, which can only reasonably be assessed in the context of regional energy supply and demand. Moreover, producing a programmatic environmental impact statement (PEIS) is required by NEPA, by applicable regulations promulgated pursuant to NEPA, and by the relevant case law in a situation where, as here, one large project or several related projects will have cumulative or synergistic environmental consequences.<sup>9</sup>

<sup>9</sup> In situations similar to the one here presented Courts have repeatedly reversed agency decisions not to produce a PEIS. *City of Carmel-By-The-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142 (9th Cir. 1997) (holding that agency's EIS was satisfactory in every respect *except* the lack of review of cumulative impacts); *City of Tenakee Springs v. Clough*, 915 F.2d 1308 (9th Cir. 1990) (holding that where several foreseeable similar projects in a geographical region may have a cumulative impact a PEIS must be produced); *Lutlamme v. Fed. Energy Regulatory Comm'n*, 842 F.2d 1063 (9th Cir. 1988) (reversing FERC's decisions not to produce a programmatic EIS and not to grant a rehearing), *opinion amended*, 852 F.2d 389 (9th Cir. 1988) (suspending license previously granted by FERC and instructing FERC not to reissue license until and unless programmatic EIS is produced); *Sierra Club v. U.S.*, 23 F. Supp.2d 1132 (N.D. Cal. 1998) ("Where there are large scale plans for regional development, NEPA requires both a programmatic and site-specific EIS." [internal quotation marks and citation omitted]); *Nat'l Wildlife Fed'n v. Benn*, 491 F. Supp. 1234 (S.D.N.Y. 1980) (granting summary judgment to environmental plaintiffs only on claim that defendant agencies had failed to produce a programmatic EIS); *Am. Pub.*

CLF, "Protecting New England's Environment"  
-4-

20090706-5066 FERC PDF (Unofficial) 7/6/2009 3:15:36 PM

CO8

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Preparing a PEIS in an appropriate case is an important way for an agency to carry out NEPA's broad mandate. When enacted, NEPA was considered "the most important and far-reaching environmental and conservation measure ever enacted by the Congress." 115 Cong. Rec. 40,416 (Dec. 20, 1969). It was a "comprehensive national [environmental] policy[.]" S. Rep. No. 91-296, at 5 (1969) which would henceforth require a detailed Environmental Impact Statement (EIS) be done on all future major Federal projects. 42 U.S.C. § 4332(2)(C). The concept of a PEIS had its origins in a Supreme Court case which held that where several projects or potential projects "will have a cumulative or synergistic environmental impact upon a region . . . their environmental consequences must be considered together." *Kleppe v Sierra Club*, 427 U.S. 390, 410 (1976) (emphasis added).

The Weaver's Cove LNG Project should trigger a PEIS, in significant part because the Project is intended to meet New England region-wide energy needs. FERC has acknowledged that potential alternatives to the Project include other pending land-based and offshore LNG terminal proposals. All these potential options vary widely in characteristics that can dramatically affect environmental impacts.

The reason why a *programmatic* EIS is so crucial in this case is that FERC's decision to approve this Project will have inevitable, far-reaching effects on *other* potential projects in the Northeast. In the narrowest and most immediate sense, FERC's approval of one project may have the effect of precluding other projects from coming to fruition. In that event, the importance of choosing an alternative with the fewest adverse environmental impacts is obvious. In the alternative, it is possible that multiple projects increasing New England's supply of natural gas may be approved and built but that the market will only economically support some, but not all, of the newly built facilities. New England would then be faced with a truly terrible situation – suffering the potentially severe environmental impacts from the construction of a plant or plants the viability of which cannot be sustained by the market.

There are today multiple projects proposed to help address New England's future needs for natural gas and other forms of energy supply. NEPA requires producing a PEIS that first analyzes the need for increased supply and then generic attributes that may be desirable (or undesirable) for projects to increase supply (such as, for LNG import terminals, population density, berth depth, and so forth) and only then compares, contrasts, and considers the environmental pros and cons of potential alternatives. This is because "NEPA emphasizes the importance of coherent and comprehensive up-front environmental analysis to ensure informed decision making to the end that 'the agency will not act on incomplete information, only to regret its decision after it is too late to correct.'" *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (quoting *Marsh v. Oregon Natural Res. Def. Council*, 490 U.S. 360, 371 (1989)).

It is important to note that even though several LNG projects have been approved and even constructed and put into operation in the past few years, it is not too late to undertake a PEIS

*Transit Assoc. v. Goldschmidt*, 485 F. Supp. 811 (D.C.D.C. 1980) (granting summary judgment in favor of plaintiff environmentalists on issue of programmatic EIS).

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20090706-5066 FERC PDF (Unofficial) 7/6/2009 3:15:36 PM

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now. Indeed, the need for a PEIS is even more urgent given that the new LNG capacity in the region has significantly diminished if not eliminated the need for any further LNG infrastructure in the foreseeable future, yet several massive LNG projects nonetheless are still pending in the pipeline (including the Weaver's Cove Project as well as the Calais and Downeast projects in Maine).

#### The Natural Gas Act and NEPA Call for a Rational, Structured Approach:

Ultimately, meeting the requirements of the Natural Gas Act and NEPA calls for a two-pronged approach at the outset of project review:

**First, an energy and gas supply needs assessment must be undertaken.** This assessment, which can build upon the wealth of existing analyses to determine a realistic level of need in order to avoid overbuilding (or under-building) of facilities, can then serve as a key determinant in decision-making. It is essential that this assessment be based on a balanced approach that looks to increased energy efficiency<sup>10</sup> and demand-side management of gas and electricity in addition to clean renewable energy alternatives and supply-side answers like augmenting LNG import facilities.

Here, the needs assessment should consider the significant new LNG import capacity that was dismissed by FERC as "too speculative" during its review of the original Weaver's Cove LNG project yet has recently become available or is soon to become available in the region. Projects bringing substantial new capacity (and that were not previously considered as realistic in FERC's prior review of the Weaver's Cove LNG project) include (1) the Execlerate/Northeast Gateway LNG facility off the north shore of Massachusetts that has already received LNG deliveries;<sup>11</sup> (2) the Suez/Neptune offshore LNG project that is under construction and expected to go into service later this year; (3) the nearly 90% complete Canaport LNG facility in New Brunswick, and associated upgrades to the Maritimes and Northeast pipeline, that are expected to provide up to 1 billion cubic feet (bcf) of additional natural gas supplies into the New England region. The assessment also should take into account that the Bear Head LNG facility approved for construction in nearby Nova Scotia, also intended to service the New England market in substantial part, has been mothballed by its developers due to unfavorable market conditions.

In addition, as Acting Commissioner Wellinghoff aptly noted in his dissent to FERC's January 2009 AES Sparrows Point LNG Terminal decision, previous estimates by the United States Energy Information Administration (EIA) regarding likely demand for imported LNG recently have been revised significantly downward to reflect far more modest figures than the numbers that were taken into account when the previous Weaver's Cove LNG Project was considered, and there is credible evidence that "the United States remains the market of last resort for LNG Supplies [in the global marketplace]." January 15, 2009 Wellinghoff Statement at pp. 1-2. Existing LNG import facilities have substantial untapped existing capacity, and it makes no

<sup>10</sup> Appropriate investment in efficiency can help meet our gas needs more quickly and with greater results than capital investment in extraordinarily costly LNG terminal and shipping infrastructure.

<sup>11</sup> As recently as 2005, these two offshore LNG projects were viewed by FERC as too "speculative" to be considered as viable alternatives in connection with the environmental impact review of the original Weaver's Cove LNG project.

CLF, "Protecting New England's Environment"  
-7-

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CO8

## CONSERVATION LAW FOUNDATION

sense to invest in additional massive energy infrastructure (with all of the associated impacts) if the need readily can be met by these existing facilities.

**Second, a regional siting approach should be developed to evaluate the comparative merits of the actual site(s) for LNG import facilities, based upon rigorously developed criteria that address both public safety and environmental protection concerns.** Community stakeholders should be included in an informed, participatory process that can translate any assessed regional need for expanded LNG import capacity into a coordinated effort to build only responsible LNG infrastructure to serve the region.

In the event a determination is made that additional LNG infrastructure makes sense in the region, this "comparative analysis" step is necessary for ensuring that permitting of any new facility is based not on a race to the wire but on relative merit in terms of avoiding or mitigating environmental and public safety impacts. As part of this analysis, it will be critically important to take a "hard look" at the environmental impacts of the newly proposed Weaver's Cove Project located in Mount Hope Bay and weigh those impacts against the impacts presented by project alternatives, including but not limited to other LNG terminal proposals.

As highlighted in the comments submitted by the Massachusetts Department of Environmental Protection and City of Fall River, Weaver's Cove's proposed large-scale transfer of LNG using cryogenic pipeline technology over more than a four-mile distance in a submerged aquatic environment is believed to have no prior commercial application or to otherwise have been evaluated in a comparable demonstration project anywhere in the world. As such, it is particularly important to rigorously assess the feasibility of the proposal and to understand the potentially unique consequences that could result during normal operations and maintenance as well as potential system disruptions or failures. These impacts, once understood, must then be taken into account as part of a comparative regional assessment of LNG projects and clean energy alternatives.

Any LNG import facility siting process should ensure that any development occurs only in the right locations, subject to terms that fully protect the public interest, and through processes that ensure ample public input.

**Conclusion:**

Undertaking a regional approach to LNG terminal siting represents an important opportunity to address this controversial issue in a strategic manner and propel consideration beyond the current, site-specific, polarized siting debates. The essential starting point for such an approach is an up-to-date regional natural gas and energy needs assessment to determine the extent to which any new LNG infrastructure is needed. Such an assessment must take into account existing, new and soon-to-be available natural gas capacity in the region, as well as consideration of whether there are better alternatives such as energy efficiency, conservation or renewable energy.

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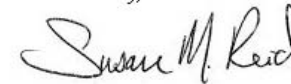
CO8

## CONSERVATION LAW FOUNDATION

Any further consideration of LNG infrastructure at that point should be undertaken on a regional and comparative basis, ensuring that only projects with preferable environmental and public safety characteristics are allowed to move forward. Ultimately, a more rational approach to LNG siting should help ensure that any terminal site selection process provides an economically sensible and environmentally acceptable result.

Thank you for the opportunity to submit these comments.

Sincerely,



Susan M. Reid, Esq.  
Director, MA Clean Energy & Climate Change Initiative

cc: Jon Wellenhoff, Acting Chairman  
Sueleen G. Kelly, Commissioner

CLF, "Protecting New England's Environment"  
..a.



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CO9

July 6, 2009

Kimberley D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

Project Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001

#### Comments on the Downeast LNG FERC Draft Environmental Impact Statement

Since the greatest potential threat to the North Atlantic right whale (and other whale species) associated with the Downeast LNG terminal project would likely involve lethal encounters between an LNG vessels and whales occurring in Canadian waters, we feel it is appropriate to comment on that threat citing two Canadian documents: The Canada Wildlife Service's *Environmental Assessment Best Practice Guide for Wildlife in Canada* and the *Canadian Right Whale Recovery Plan* (developed by Canada's Department of Fisheries and Oceans and World Wildlife Fund Canada).

Throughout, we will address the significance of the threats by urging the regulator to view them through the lens of the "need" for the project.

The Canadian Wildlife Service's *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada* ([http://www.cws-scf.gc.ca/publications/eval/guide/EA\\_Best\\_Practices\\_2004\\_e.pdf](http://www.cws-scf.gc.ca/publications/eval/guide/EA_Best_Practices_2004_e.pdf)) states: "Where there is a threat of serious or irreversible harm (i.e., significant adverse effects) to wildlife at risk or a threat of significant reduction or loss of biological diversity, the precautionary approach should be applied, which means: ...The level of caution should be proportional to the level of threat, recognizing that in some situations no risk is acceptable, determined by factors such as the following: ...Population present (proportion of a species' regional, provincial, territorial or national population, or number of individuals)."

The DOWNEAST DEIS Appendix C says: "In Canadian waters, especially in Grand Manan Basin Whale Sanctuary, it has been estimated that significantly more than two-thirds of all North Atlantic right whales are found in this area during the summer and fall (June-November) each year. Given the very small size of the population and very low birth rate of this species, the NOAA Fisheries has determined that ship-related mortality and injury are significant obstacles to the species' recovery (NOAA Fisheries 2005)."

It is clear, given the precarious size of the right whale population and the large percentage of the population found in the area where a vessel strike might occur, as stated above, that a "threat of serious or irreversible harm" would be posed by the Downeast project. The right whales in danger from Downeast LNG vessel traffic clearly represent a significant "proportion of [the] species' regional, provincial, territorial or national population, or number of individuals." And, in light of the serious doubts expressed by numerous energy analysts that predicted Northeast U.S. energy needs will not be met by existing and currently permitted LNG projects, the permitting and development of the Downeast project would seem to create one of those situations where "no risk is acceptable."

The Canadian Wildlife Services *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada* goes on to say: "Determining the significance of residual adverse environmental effects....The following list of serious consequences should be avoided....and may help in the determination of significant adverse effects: Effects that

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[www.sierraclub.ca/atlantic](http://www.sierraclub.ca/atlantic)

CO9-1

CO9-1 See response to comments FA4-12 and CO8-1.



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CO9

threaten the long-term persistence or viability of wildlife populations...; Effects that diminish the potential for species recovery, such as those effects that are contrary to or inconsistent with the goals, objectives or activities of recovery strategies and action plans; Effects that promote or prolong those threats identified in recovery strategies, action plans and species management plans as contributing factors in population decline; Effects that diminish the capacity of critical habitat to provide for the recovery and survival of wildlife at risk; Effects that may result in any of the above."

All of the conditions stated above would clearly apply in the aftermath of a lethal encounter between a Downeast LNG vessel and a North Atlantic right whale.

The Canadian Wildlife Services *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada* also suggests: "Tolerance of risk of impacts should be lower for wildlife at risk than for other species. Uncertainty should not be used to allow a project to proceed but rather should require further work to demonstrate that the project will not affect the species before it is allowed to proceed."

We would like to paraphrase the above and strongly suggest that "Tolerance of risk of impacts should be lower for threats to wildlife at risk for projects that cannot demonstrate fulfilling a significant need than for projects that can."

The Canadian Right Whale Recovery Plan (<http://www.arenm.org/eng/FSC.html?sect=2&page=2-4-5.html>) was prepared in 2000 by the Department of Fisheries and Oceans (DFO) and World Wildlife Fund Canada in collaboration with scientific experts and representatives of the fishing, shipping and tourism industries. The Plan, according to its Executive Summary, "is intended to improve the species' chances of survival and recovery." The summary also explains that "The principal immediate threat to the western North Atlantic right whale population is thought to be mortality resulting from ship strike" and "the main objectives of the recovery plan are to reduce the frequency with which right whales are struck and to reduce the incidence of entanglement in fishing gear."

In the introduction to the Canadian Right Whale Recovery Plan's "Strategy A (Reduce the mortality and injury related to vessel strike)" it states: "The ideal solution would be to eliminate vessel traffic in areas where right whales occur, but this is obviously impossible."

We agree that the Canadian Right Whale Recovery Plan's "ideal solution" for protecting the right whale from ship strike, eliminating all vessel traffic where right whales occur, is not practical and in most cases "impossible." But it is not impossible to eliminate or reduce some existing vessel traffic if alternatives to that traffic can be provided. And it is quite a simple matter to eliminate future vessel traffic if that traffic would be generated by a project for which there is no demonstrable need. Denying a permit for such a project would effectively eliminate the associated ship traffic.

CO9-2

An example of the potential for reducing or eliminating some existing vessel traffic that currently occurs in the Bay of Fundy is the possible redirection of some or all of the gypsum from the existing gypsum mine in Avenport and from its proposed expansion. If the old rail link to Halifax, where there is an existing gypsum port facility, were to be resurrected, rerouting gypsum by rail for shipment out of Halifax could eliminate some or all of the current gypsum traffic in the Bay of Fundy.

An example of eliminating future vessel traffic associated with a planned project with a dubious need in an area frequented by right whales was the rejection in 2007, on the unequivocal recommendation of a three-member federal and provincial assessment panel, of the Whites Point Quarry proposed for Nova Scotia's Digby Neck. The "need" for that project as stated in the project EA was to provide the proponent with an alternative to purchasing aggregate "on the open market."

Reducing or eliminating future impacts that might negatively affect the prospects for North Atlantic right whale survival and recovery associated with coastal developments, especially those projects of questionable value (or "need"), is the mandate of North Atlantic Right Whale BEACON (Bi-national Early Alert Coastal Network), a North Atlantic right whale protection project of the U.S. Sierra Club's Atlantic Coast Ecoregion Task Force and Sierra Club of Canada's Atlantic Canada Chapter (See *Right Whale News*, May 2006). North Atlantic Right Whale BEACON actively advocated for the North Atlantic right whale in the Whites Point Quarry assessment.

CO9-2 Efforts to reduce the presence of vessels in habitats used by right whales have been implemented by the International Maritime Organization (IMO), particularly, the Bay of Fundy Traffic Separation Scheme (TSS). In 2002, Canada proposed to the IMO a shift in the TSS that removed transiting vessels from areas of high whale density. A recent study determined that the amended Bay of Fundy TSS reduced the overall risk of vessel collisions with whales by 62 percent (Vanderlaan, A.S.M., C.T. Taggart, A.R. Serdysnska, R.D. Kenney, and M.W. Brown. 2008. Reducing the risk of lethal encounters: vessels and right whales in the Bay of Fundy and on the Scotian Shelf. *Endangered Species Research* 4:283-297. Available online at [url] <http://www.int-res.com/articles/esr2008/4/n004p283.pdf>). In the Gulf of Maine, this was accomplished by Canada's proposal to the IMO, which authorized an amendment to the Bay of Fundy Traffic Separation Scheme (IMO's COLREG.2/Circ.52, January 6, 2003; url [http://www.imo.org/includes/blastDataOnly.asp/data\\_id%3D6679/52.pdf](http://www.imo.org/includes/blastDataOnly.asp/data_id%3D6679/52.pdf)).

We agree with the Canadian Right Whale Recovery Plan statement that eliminating vessel traffic where right whales are known to occur is impossible. Nevertheless, Downeast has proposed measures to minimize impacts on this species, which are detailed in section 4.6 of the EIS. Downeast states it would require LNG vessels transiting to the Downeast LNG terminal to comply with NOAA Fisheries-regulated practices to protect the right whale, follow IMO regulations to report any sightings of right whales, and undertake precautionary measures to avoid any contact with the species. Additionally, the Coast Guard would ensure that vessels abide by these regulations, or be turned away from entering the waterway. See response to comment CO8-1 regarding need for the project.

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CO9

**In Conclusion:**

Serious and legitimate concern (for reasons amply and repeatedly expressed in the Downeast DEIS, in its Appendix C and in the U.S. Coast Guard's Waterway Suitability Study) regarding the Downeast LNG Terminal project's potential adverse impact on and threat to the future survival of *Eubalaena glacialis*, the North Atlantic right whale, especially in light of arguably dubious "need" for the project in the Northeast U.S. energy scheme and the currently existing or permitted alternative suppliers in both the U.S. and Canada, offers ample justification for FERC to ultimately determine that the Downeast LNG Terminal project poses a needless threat to the North Atlantic right whale and should not be allowed to proceed.

CO9-3

CO9-3 See response to comment CO9-1.

**Additional Comments and a Recommendation:**

FERC should carefully review Downeast LNG's rationale for determining that its alternative Grand Manan Channel tanker route is safer for North Atlantic right whales and other whales and marine mammals. A lesson can be learned regarding this issue from the experience gained during the Whites Point Quarry assessment.

The quarry proponent decided that its bulk aggregate carriers should travel from the quarry site on Digby Neck via a route that would take the vessels below the Grand Manan Right Whale Conservation Area (RWCA) to enter and exit the Bay of Fundy Transit Separation Scheme (TSS). Avoiding traveling through the RWCA was an important feature of the quarry proponent's plans for mitigating the threat of ship strike.

Working at the request of the Atlantic Canada Chapter of Sierra Club Canada and NARW BEACON, Chris Clark and his team at the Oceanography Department of Dalhousie University modeled the proposed "safer" route using historical right whale sighting data. Their conclusion was that a route that saw ships entering the TSS higher up and then traveling out through a corner of the RWCA would significantly reduce the likelihood of vessel/right whale encounter. (See [www.cemr.gc.ca/010-0001/0001/0023/WP-1784-018.pdf](http://www.cemr.gc.ca/010-0001/0001/0023/WP-1784-018.pdf)) The proponent provided no evidence in its EA document to indicate that its preferred route was chosen for any reason other than the atmospherics of how good it sounded.

Taggart and his team conducted the routing studies associated with the efforts that led to the alteration of the Bay of Fundy TSS and to the recent IMO designation of the right whale critical habitat in the Roseway Basin as an Area to be Avoided. And they participated in authoring "Probability and mitigation of vessel encounters with North Atlantic right whales" ([www.int-res.com/articles/esr/2008/6/m006p273.pdf](http://www.int-res.com/articles/esr/2008/6/m006p273.pdf)), a paper in Endangered Species Research published online in March 2009.

We recommend that FERC and Downeast seriously consider engaging Taggart and his team to conduct a full risk analysis addressing vessel encounters with right whales and to assess the soundness of Downeast's selection of Grand Manan Channel as a safer tanker route. The lack of such an analysis is a serious deficiency in the Downeast DEIS.

CO9-4

CO9-4 We do not believe that it is necessary at this time to engage additional risk analysis to address vessel encounters with right whales within Grand Manan Channel. We are awaiting NOAA Fisheries' Biological Opinion on the potential impact on right whales, based on the proposed action and measures proposed by Downeast to avoid or minimize impacts, as presented in our Biological Assessment.

Regarding this recommendation, we would like to repeat part of a quote from above from The Canadian Wildlife Services *Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada*: "Uncertainty should not be used to allow a project to proceed but rather should require further work to demonstrate that the project will not affect the species before it is allowed to proceed."

The Downeast LNG project should not proceed until the proponent can demonstrate that it will not affect the North Atlantic right whale.

Mark Dittrick  
Spokesperson  
North Atlantic Right Whale BEACON

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CO10



**St. Croix International Waterway Commission**

#5 Route 1, St. Stephen, NB E3L 2Y8 and PO Box 610, Calais, ME 04619  
Tel: (506) 466-7550 Fax: (506) 466-7551 email: staff@stcroix.org

July 6, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE Room 1A  
Washington, DC 20426

Re: Dockets CP07-52-000, CP07-53-000, CP07-53-001 (Downeast LNG Project)

Dear Ms. Bose:

We are commenting on the Draft Environmental Impact Statement (DEIS) prepared for the proposed Downeast LNG Project marine terminal, re-gasification facility and sendout pipeline near the St. Croix International Waterway (St. Croix River).

We feel that other parties have already adequately addressed most of the points that we would raise and so will restrict our comments to just one concern that, as far as we are aware, has received limited attention during this public consultation.

Earlier this year, four agencies and the Passamaquoddy Tribe expressed significant concerns about the proposed horizontal directional drill (HDD) pipeline route under 1.2 miles of the St. Croix River, and the lack of a planned alternative should the HDD prove to be unfeasible or unsuccessful.

In its DEIS, FERC recognized this to be an issue but does not adequately address it. We ask that it do so, in full consultation with appropriate agencies and interests, prior to completing the final project EIS.

In Section 4.3.2.3 of the DEIS, FERC requests that Downeast LNG file specific studies and construction plans for the St. Croix River HDD, along with any agency comments on these, and plans for an open-cut alternative over the same route *prior to the end of the draft EIS comment period*. The requested HDD geotechnical analyses and construction plans are critical to the proper technical and environmental assessment of this pipeline option and should be made available for review by agencies and potentially-affected parties as soon as possible, with adequate time for comment. Can you advise us of when these will be available and what consultations are planned?

We suggest that FERC's open trench alternative to the St. Croix River HDD would, if studied properly, be found to have significant environmental impacts and could involve an additional level of international permitting. We indicated earlier that we had serious concerns about this option. We asked FERC to require the development of an alternative route that would be included in the formal project plan – this with a period for public comment and EIS review – so that abandonment or delays would not result if the St. Croix River HDD was unsuccessful.

CO10-1

CO10-2

CO10-1 Downeast's "Responses to DEIS Conditions" is on the docket under accession number 20090710-5103 (filed July 10, 2009) and available for review on FERC's eLibrary website. Construction drawing number DOW-E-HDD-15.0 Rev. No. A in Appendix 21 of Downeast's submittal presents the current HDD plan for the St. Croix crossing with a site-specific construction diagram showing the location of mud pits, pipe assembly areas, and all areas to be disturbed or cleared for construction, and a contingency plan for crossing the feature in the event an HDD is unsuccessful. A summary of the geotechnical analysis of the HDD location can be found on page 5 of Downeast's submittal. Downeast states that it continues to consult with various federal and state regulatory agencies regarding pipeline construction procedures and guidelines.

CO10-2 Downeast's response to our recommended condition 23 can be found beginning on page 5 of its submittal under accession number 2009010-5103. According to Downeast's submittal, the applicant does not propose an open-cut method as a contingency for the crossing of the St. Croix River. Rather, Downeast's contingency plan in the event the St. Croix River HDD is unsuccessful would be an inland route that would cross U.S. Route 1 and proceed to the railroad right-of-way owned by Pan Am Railways, follow along the southeast side of the right-of-way between the St. Croix River and the Moosehorn NWR until just beyond the Calais Town line, and then diverge south to the edge of U.S. Route 1. Downeast believes that based on recent test borings for the unrelated, but nearby international border crossing project, the St. Croix HDD crossing is technically feasible and the subsurface conditions are favorable for this type of construction. Prior to commencing any construction activities, Downeast would submit a site-specific geotechnical feasibility report for the proposed HDD crossing, as well as environmental information for the contingency inland route.

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CO10

In Section 3.8.1.2 of the DEIS, FERC identifies select alternatives to the St. Croix River HDD route but, ultimately, does not recommend any of these. We ask FERC and the Downeast LNG Project look more closely and urgently at alternatives to the St. Croix River route, for the reasons noted above.

CO10-2  
cont'd

Thank you for this opportunity to comment.

Sincerely,



Lee Sochasky  
Executive Director



# TOWN OF ST. ANDREWS

June 25, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

Re: Project Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001

Dear Secretary Bose:

On behalf of the citizens of the Town of St. Andrews and those who visit our Town each season, I must register our objection to the proposed construction of a LNG facility in Passamaquoddy Bay.

Large industrial development of any kind in the proposed sites will impact the very livelihood of most which live along Passamaquoddy Bay. I am sure you have been fully briefed by now that many in our community as well as our neighbouring communities rely on the fishery, aquaculture and tourism industries. Also, our industries do not have significant impact on our environment as would industries such as LNG would impose on our environment. The negative social and economic impacts of the transporting and storage of LNG in Passamaquoddy Bay has not changed since the first Down East Application. The attached impact statement remains as true today as it was last year.

Many who visit our area enjoy the serene, pristine and friendly atmosphere and look forward to "escaping" from environments clouded with smog and noise pollution from large industry. It is that atmosphere that would be lost if LNG terminals are permitted along Passamaquoddy Bay. It is a sad commentary that at a time when we should be encouraging environmentally friendly practices throughout our world, we need to continue to fight to keep our area open for those who need a smog break.

The residents of this Town, our Province and the Government of Canada are united in opposition to these projects. We strongly support Save Passamaquoddy Bay US in their work to draw attention to the inappropriateness of these projects for our shared waters.

Yours truly,

John D. Craig  
Mayor of St. Andrews

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CO11-1

CO11-1 See response to Comment NA4-223. We do not believe that the Downeast LNG terminal would have adverse social and economic impacts on St. Andrews and the other communities along Passamaquoddy Bay. Section 4.11 of the EIS addresses air and noise impacts. We have determined that construction and operation of the proposed project would not have significant air or noise impacts.



CO11

**Town of St. Andrews  
Local Impact by the Transport or Storage of LNG in Passamaquoddy Bay**

The social, economic and safety risks to the residents of Southern New Brunswick are so extreme that they are outlined in bullet form:

**Infrastructure:**

- The immediate need for infrastructure upgrade would be to address emergency response equipment and personnel. The county and municipalities operate primarily on a volunteer basis with limited medical, ambulance, fire, police and emergency services. It is well known that Southern New Brunswick is currently poorly equipped to handle even minor disasters. To meet the needs of Emergency Planning in the event of an LNG accident would cost the surrounding communities hundreds of thousands of dollars in long-term capital purchasing and annual operating costs. A local Hazardous Material Response Team alone would cost the communities over \$200,000 in annual operating costs.
- To respond to the fire flow needs to meet insurance requirements if an LNG project is approved, the Town of St. Andrews would have to install an additional water reservoir with a capacity of ½ million gallons at a cost of \$700,000.00.
- Annual Operating Protective Service Budgets for Fire, Police and Emergency Services today total close to \$500,000. If an LNG plant was across the harbour, the costs would soar to over \$1,000,000 per year operationally. This does not include millions of dollars in capital equipment requirements.

CO11-2

**Economics of tourism and property sales:**

- Property value would drop significantly especially on water front so tax base would be impacted.
- We have already been informed by some property owners that they are taking a wait and see attitude on new construction. If this project proceeds development will cease. Average permits are over \$500,000 each on the waterfront.
- Tourism is a multi-million industry in St. Andrews. The Federation of Canadian Municipalities have identified tourism as a growing economy with rural communities leading the way as over one-half of Canadians and one-third of international visitors planning their visits to rural Canada. The impact of this type of industry would cripple the tourism sector. Studies show that changing demographics will result in 60% growth in eco-tourism with a learning element. St. Andrews with its new Center of Excellence in Marine Learning and Eco-tourism would leave a \$20 million dollar project in jeopardy.

CO11-3

CO11-4

**Social impact:**

- The professional services in Southern New Brunswick would suffer as physicians and other professionals service providers who come here because of the quality of life would not stay if it were to diminish.
- The quality of life and therefore health of our residents would be impacted.

CO11-5

CO11-2 See response to comment CO13-4.

CO11-3 Property values are discussed in section 4.8.2.3. Studies have found that property values are not affected by the presence of an LNG facility, as stated in this EIS.

CO11-4 See response to comment CO11-1. Commercial marine activities and the tourism industry have co-existed in the area for many years. There is no evidence that the LNG facility would detract from the eco-tourism attractions and educational opportunities of the area.

CO11-5 We do not believe that the presence of one facility across the St. Croix River would limit New Brunswick's ability to attract and keep medical personnel, nor do we believe that the proposed project would impact the quality of life and health of the residents, leading to increased substance abuse and crime. We do not believe the proposed project would lead to industrialization of the area. See our analysis of the potential for secondary growth and industrialization in section 4.13.11 of the EIS.

**CO11 Town of St. Andrews, New Brunswick, Canada (continued)**

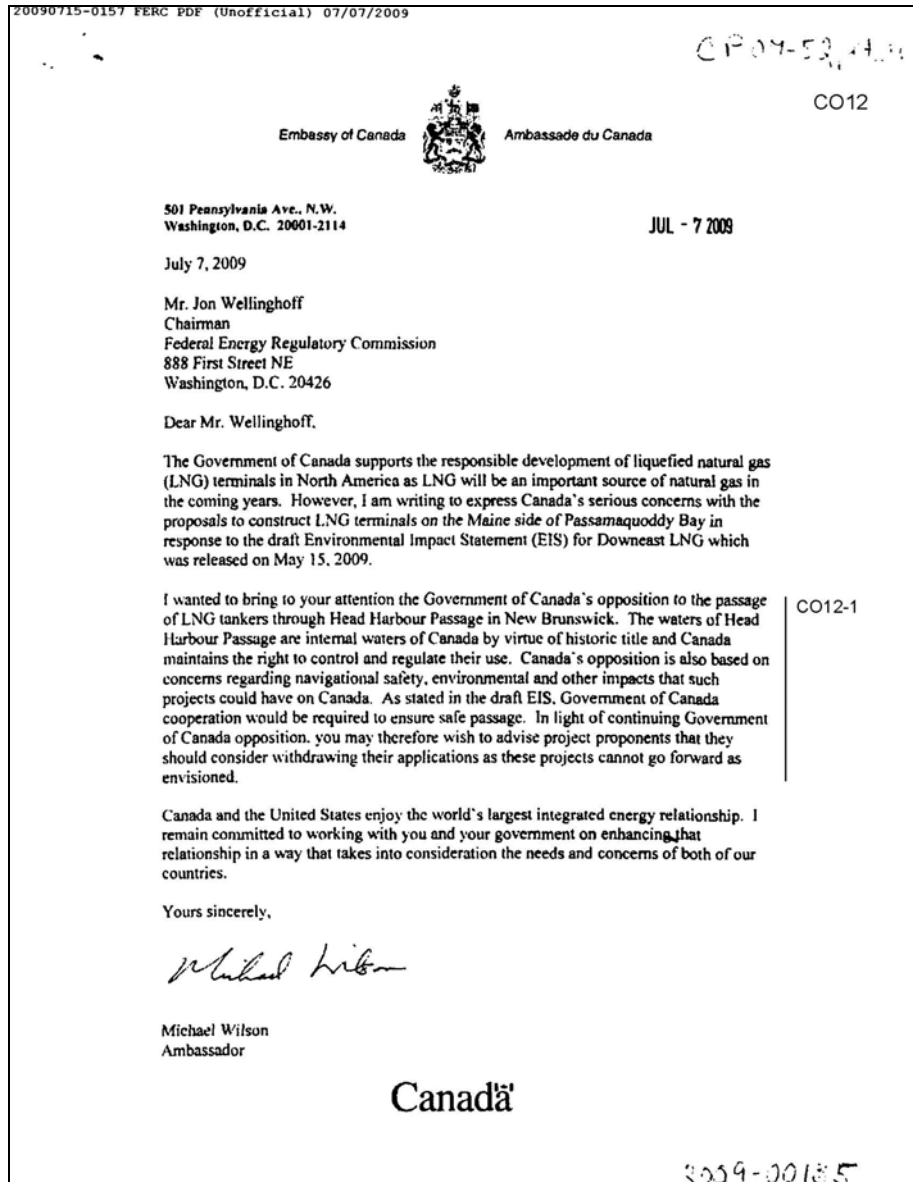
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CO11

- With reduced standard of living would come increased substance abuse and crime.
- There is no doubt that the social fabric of Charlotte County would change with industrialization of Passamaquoddy Bay. Support industry would also be of the same nature and impact negatively on our Town.

CO11-5  
cont'd



CO12-1 On February 26, 2010, Chairman Wellinghoff provided a response to similar concerns expressed by then Ambassador Gary Doer. Following is a summary of that response:

We highly value your thoughts on these projects and recognize that issues relating to LNG tanker passage through Canadian waters have not yet been resolved. However, we have consistently maintained that it is necessary for the Commission staff to continue its processing of the applications for the Calais Pipeline Project and the Downeast LNG project so that the projects can be put before the Commission for a decision. If the Commission finds that approval of either or both of the projects is in the public interest, and the specific matters of international law are favorably resolved, we want to ensure that these projects can proceed in a timely manner.

Throughout the review of the two projects, the Commission has encouraged input by Canadian stakeholders into our process and will continue to do so. In particular, the staff has reached out to the Canadian agencies with relevant responsibilities to assist the Commission staff as they finalize their analyses of the environmental, security, safety, and navigational effects of the projects.

20090715-0157 PERC PDF (Unofficial) 07/07/2009

CO12

cc. The Honorable Steven Chu, Secretary of Energy  
The Honorable Hillary Clinton, Secretary of State  
Ms. Kimberly D. Bose, Federal Energy Regulatory Commission



PUBLIC VERSION

CO13

July 2, 2009

PORTIONS OF THIS REPORT  
CONTAIN CEII - DO NOT RELEASE  
PURSUANT TO 18 CFR 388.112/113

Chairman Jon Wellinghoff  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Downeast LNG, Inc. and Downeast Pipeline, LLC  
Docket Nos. CP07-52-000, CP07-53-000 and CP07-53-001

Dear Chairman Wellinghoff:

I write to you today regarding the Downeast LNG import facilities ("Project") draft environmental impact statement ("DEIS") that the Federal Energy Regulatory Commission ("Commission") Staff recently issued. As Premier of the Province of New Brunswick, it is my duty to ensure that the citizens, the economy and the environment of my Province are appropriately protected and to minimize and manage unnecessary risks and negative impacts. It is with this in mind that the Province makes the attached submission to the Commission.

When the DEIS was released, I directed each of the Province's Departments with jurisdiction over issues affected by the Project to conduct a thorough review of the DEIS and provide me with a report on any deficiencies as well as the departments' initial assessments of the impacts of the Project on matters of concern to New Brunswick. The attached Report of the Departments of the Province of New Brunswick on the Downeast LNG, Inc. Draft EIS ("Report") is the result of that effort.

As you can see by reviewing the Report, the impacts on New Brunswick span a wide range of issues and are substantial. The individual departments contributing to the Report conducted their research and analysis in a studied and thoughtful manner. Among the likely impacts are threats to public safety and security and inadequacy of existing resources to address those threats, environmental degradation, and potentially significant economic harm in a region of New Brunswick that is fundamentally dependent on the pristine ecosystem of the Passamaquoddy Bay region for its economic well-being. The impacts are not minimal or insignificant and many cannot be mitigated under any circumstances.

CO13-1

CO13-1 FERC staff has reviewed the *Report of the Departments of the Province of New Brunswick on the Downeast LNG, Inc. Draft EIS* (Report). Since many of the same resources are present in U.S. waters or on U.S. land, most of the issues were addressed in the draft EIS. We have incorporated additional issues and comments into the final EIS as appropriate.

...2/



CO13

Chairman Jon Wellinghoff  
July 2, 2009  
Page 2

I also take this opportunity to reiterate a fact that is well known to you and the Commission. A major portion of the marine transit route for LNG vessels destined for the Project is Canadian federal waters and is not subject to the jurisdiction of the Commission or the U.S. Government. The Canadian Government has stated its formal position through its Ambassador to the United States that it will not permit LNG vessels to transit Head Harbour Passage to LNG terminals located in Maine.

CO13-2

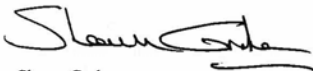
While the vessel transit is subject to federal Canadian jurisdiction, the impacts and issues identified in this Report fall squarely upon New Brunswick and are within the jurisdiction of my Province to review, analyze and address. It is not within the scope of the Commission's authority to address and/or propose mitigation for these impacts and issues. Therefore, the Province's submission of the attached Report is not intended to confer jurisdiction on the Commission to address these critically important issues. It is not provided for the Commission's analysis and inclusion into the final EIS and should not be construed as acquiescence on the part of the Province to the Commission's jurisdiction over New Brunswick issues.

CO13-3

Finally, if and when appropriate, the Province will determine, based on the Report and any additional information obtained, what actions to take or processes to establish in order to address the issues within its jurisdiction and authority.

I appreciate the opportunity to participate in the Commission's regulatory review process and look forward to continuing the Province's involvement in these proceedings.

Yours truly,



Shawn Graham  
Premier

cc: Commissioner Sueleen G. Kelly  
Commissioner Philip D. Moeller  
Commissioner Marc Spitzer  
Secretary Kimberly Bose

CO13-2 We acknowledge that a portion of the LNG vessel transit route is within Canadian waters. The Coast Guard asserts throughout the WSR that the LNG vessel would transit U.S. and Canadian waters. The Coast Guard acknowledges that, "The eventual involvement and cooperation of Canada's maritime, environmental, and public safety authorities are paramount to ensure the safety and security of the waterway."

CO13-3 We acknowledge that the Province's submission of the Report does not confer jurisdiction to the Commission. However, as a comment on the proposed project, we have addressed the environmental resource issues and concerns in the EIS. See also response to comment CO13-1.

CO13

**CEII Request**

Pursuant to Title 18 of the U.S. Code of Federal Regulations, Sections 112 and 113, the Province of New Brunswick respectfully requests Critical Energy Infrastructure Information ("CEII") treatment for portions of the attached Report.

Specifically, Section 1 of this Report contains detailed information from the New Brunswick Department of Public Safety that identifies and describes the Province's ability to respond to emergency situations. The Province asserts that the Report qualifies as CEII because it contains information that could be useful to someone planning an attack on the proposed energy infrastructure; it is exempt from mandatory disclosure under FOIA Exemption 7(F) because release of the information "could reasonably be expected to endanger the life of physical safety of any individual"; and does not merely reveal the location of the facility.

**PUBLIC VERSION**
**Inter-Office Memo**  
**Note interservices**

CO13

**Affaires intergouvernementales / Intergovernmental Affairs**  
**Cabinet de la sous-ministre/ Deputy Minister's office**  
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**Date :** July 2, 2009  
**To / Dest.:** Premier Shawn Graham  
**From / Exp.** Edith Doucet, Intergovernmental Affairs  
**Copies:** Andrew Hashey, Jocelyne Mills, Chantal Cormier  
**Subject / Objet:** **PROVINCIAL GOVERNMENT SUBMISSION TO THE U.S. FEDERAL ENERGY COMMISSION'S DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR DOWNEAST LNG INC.**

**Ref. / Réf.:**

Please find attached our department's report assessing the impact of liquefied natural gas ("LNG") vessel traffic and related activities on the people, lands and shores of New Brunswick that are likely to result from the operations of an LNG regasification terminal proposed by Downeast LNG, Inc. for construction in Robbinston, Maine ("Terminal"). While the Terminal would not be located in New Brunswick, LNG vessels approaching the Terminal would sail through Canadian waters and along New Brunswick's shorelines from the southeastern coast of Campobello Island, north around Quoddy Head, through Head Harbour Passage, around Indian Island and then through the Western Passage and Passamaquoddy Bay. The majority of the route would be within 500 to 1,000 meters proximity to New Brunswick land.

The Report has been prepared following your directive issued on May 20, 2009, for all effected line departments to conduct a comprehensive review and assessment of the draft environmental impact statement ("DEIS") for the Downeast LNG terminal project released May 15, 2009, by the Staff of the U.S. Federal Energy Regulatory Commission ("FERC").

The Report has been coordinated and assembled by the New Brunswick Department of Intergovernmental Affairs. It is based on detailed input from the Department of Public Safety, Department of Fisheries, Department of Energy, Department of Transportation, Department of Tourism and Parks, Business New Brunswick, Department of Environment, and Department of Wellness, Culture and Sport.

Page 2 of / sur 2  
July 2, 2009 / le 2 juillet 2009

CO13

While the substance of this Report falls outside the scope of FERC's authority, as noted, we recommend that it be submitted to FERC in the spirit of intergovernmental cooperation and transparency. Submission of the Report to FERC does not subject New Brunswick concerns to FERC's jurisdiction, but FERC may elect to use the contents of the Report in addressing circumstances within FERC's jurisdiction. For example, FERC may be able to reevaluate the potential effects on certain U.S. interests which are affected in a similar fashion to New Brunswick's interests. In all events, however, nothing in FERC's treatment of the Report, or any action FERC may take in reaction to the Report, will confer jurisdiction on FERC with respect to any federal Canadian or New Brunswick matters.

This Report presents New Brunswick's current assessment of the impacts of the Downeast LNG project proposed in Maine, and the department will continue to monitor and assess impacts on New Brunswick of this and other projects as directed.

Sincerely,



Edith Doucet  
Deputy Minister

PUBLIC VERSION - CEII REMOVED  
PURSUANT TO 18 C.F.R. § 388.112 AND 388.113

CO13

#### INTRODUCTION AND OBJECTIVE

This report ("Report") assesses the impacts of liquefied natural gas ("LNG") vessel traffic and related activities on the people, lands and shores of New Brunswick that are likely to result from the operations of an LNG regasification terminal proposed by Downeast LNG, Inc. ("Downeast") for construction in Robbinston, Maine ("Terminal"). While the Terminal would not be located in New Brunswick, LNG vessels approaching the Terminal would transit through Canadian waters and along New Brunswick's shorelines from the southeastern coast of Campobello Island, north around Quoddy Head, through Head Harbour Passage, around Indian Island and then through the Western Passage and Passamaquoddy Bay. The majority of the route would be within 500 to 1,000 metres proximity to New Brunswick land.

This Report has been prepared following the directive by New Brunswick Premier Shawn Graham, issued 20 May 2009, for all affected line departments to conduct a comprehensive review and assessment of the draft environmental impact statement ("DEIS") for the Downeast LNG terminal project released 15 May 2009, by the Staff of the U.S. Federal Energy Regulatory Commission ("FERC").

The Report has been coordinated and assembled by the New Brunswick Department of Intergovernmental Affairs. It is based on detailed input from Department of Public Safety; Department of Fisheries; Department of Agriculture and Aquaculture, Aquaculture Division; Department of Environment; Department of Natural Resources; Department of Transportation; Department of Tourism and Parks; Department of Wellness, Culture and Sport, Archeological Services, Heritage Branch; Business New Brunswick; and Department of Energy.

No U.S. government agency has jurisdiction over Canadian waters or New Brunswick territory and interests. FERC thus is without authority to address any of the potential effects on Canadian interests – including New Brunswick and its people – of the LNG vessel traffic associated with the proposed Terminal. The U.S. Coast Guard, on which FERC relied with respect to marine impacts, has specifically recognized in its Waterway Suitability Report ("WSR") that the Downeast project cannot proceed without Canadian approval, support and coordination.

Developing bilateral arrangements and protocols is necessary on a number of fronts to ensure that adequate safety, security, and environmental response mechanisms are in place to ensure safe and efficient transits and for the protection and welfare of the surrounding marine communities. The eventual involvement and cooperation of Canada's maritime, environmental, and public safety authorities are paramount to ensure the safety and security of the waterway. (WSR at 48.)

Under Canadian law vessel transportation and related activities in Canadian waters fall within the exclusive jurisdiction of the federal government. The Canadian government has issued an unequivocal ban on the transit of LNG vessels through the Head Harbour Passage. Notably, on 14 February 2007, Canadian Ambassador to the United States Michael Wilson stated in a letter to former FERC Chairman Joseph T. Kelliher:

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PURSUANT TO 18 C.F.R. § 388.112 AND 388.113

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The impact of the proposed siting of the terminals, and the potential passage of LNG tankers through the environmentally-sensitive and navigationally-challenging marine and coastal areas of the sovereign Canadian waters of Head Harbour Passage, present risks to the region of southwest New Brunswick and its inhabitants that the Government of Canada cannot accept. We are therefore prepared to use domestic legal means to address our concerns and prevent such passage from occurring.

The Government of New Brunswick has recognized the Canadian government's authority to impose the LNG vessel ban, consistent with the constitutional delineations in Canada. The findings and conclusions in this Report therefore may inform the federal Canadian government, acting through its various departments, in making any determinations or taking any actions relating to the potential impacts of LNG vessel traffic in Canadian waters, notably the interests of the people of New Brunswick.

The Report also includes detailed findings and conclusions regarding the potential effects of LNG vessel traffic on the shores and territory of New Brunswick, its people and their safety, economy and environment. These effects plainly fall within the jurisdiction of the province of New Brunswick. The Report thus provides a sound analysis which may inform any future action, legislative, regulatory or other, that the government of New Brunswick may consider or take in an attempt to prevent or minimize such effects.

While the substance of this Report falls outside the scope of FERC's authority, as noted, we recommend that it be submitted to FERC in the spirit of intergovernmental cooperation and transparency. Submission of the Report to FERC does not subject New Brunswick concerns to FERC's jurisdiction, but FERC may elect to use the contents of the Report in addressing circumstances within FERC's jurisdiction. For example, FERC may be able to reevaluate the potential effects on certain U.S. interests which are affected in a similar fashion to New Brunswick's interests. In all events, however, nothing in FERC's treatment of the Report, or any action FERC may take in reaction to the Report, will confer jurisdiction on FERC with respect to any federal Canadian or New Brunswick matters.

This Report presents New Brunswick's current assessment of the impacts on the Province of the Downeast LNG project proposed in Maine. The Department of Intergovernmental Affairs in cooperation with relevant government departments will continue to monitor and assess the impacts of this and other projects on the safety and security, economic well-being, and environmental health of New Brunswick and its people.

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PURSUANT TO 18 C.F.R. § 388.112 AND 388.113

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## EXECUTIVE SUMMARY

At the direction of New Brunswick Premier Shawn Graham and under the coordination of the New Brunswick Department of Intergovernmental Affairs, ten Departments of the Government of New Brunswick have analyzed the potential impacts of LNG vessel traffic in the Canadian waters of Head Harbour Passage, Western Passage and Passamaquoddy Bay transiting to the proposed Downeast LNG, Inc. import terminal project in Robbinston, Maine ("Downeast" or "Project").

The participating Departments are Department of Public Safety; Department of Fisheries; Department of Agriculture and Aquaculture; Department of Environment; Department of Natural Resources; Department of Transportation; Department of Tourism and Parks; Department of Wellness, Culture and Sport; Business New Brunswick; and Department of Energy. The Departments detail a number of potential impacts and risks associated with the transit of LNG vessels through the referenced Canadian waterways.

As directed by Premier Graham, each Department's assessment has focused its analysis on the Draft Environmental Impact Statement ("DEIS") issued by the Staff of the U.S. Federal Energy Regulatory Commission ("FERC") for the proposed Project. FERC Staff states in the DEIS that construction and operations of the Project, including associated vessel traffic, "would result in some adverse environmental impacts. However, [according to FERC Staff] most of these impacts would be reduced to less-than-significant levels with the implementation of Downeast's proposed mitigation measures and the additional measures in this [DEIS]." Nonetheless, the DEIS would impose on Downeast nearly 100 important conditions for the Project to proceed.

Based on the detailed information submitted, the Department of Intergovernmental Affairs concludes that the LNG vessel transit associated with the proposed Downeast LNG terminal in Maine would present substantial and currently unmanageable risks and losses to the Province, its citizens, economy and environment. After thoroughly reviewing the technical, scientific and factual information, the Department of Intergovernmental Affairs highlights the following critical findings and conclusions:

- Limited public resources exist to address public safety and security issues associated with LNG vessel traffic in the constrained waterways approaching the Downeast project site. The fire, police and paramedic resources of the Canadian communities in the Bay of Fundy, Head Harbour Passage and Western Passage regions fall far short of the resources required to assure public safety and security at the level commensurate with the potential, and generally recognized, threats and risks posed by LNG vessel traffic. In the event of an LNG vessel threat or emergency in Canadian waters, resources in this region will be quickly overwhelmed. The risks will affect Canadians and Americans alike. In order to minimize the safety and security risks posed by the proposed LNG vessel traffic in Head Harbour Passage and Passamaquoddy Bay, significant additional resources ranging from personnel, materiel, training, and funding would be required.

CO13-4

CO13-4 We have recommended that prior to initial site preparation Downeast develop an ERP and coordinate procedures with the Coast Guard; state/provincial, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal agencies (emphasis added) (see recommendations in section 5.2 of the EIS). The ERP would include a Cost-Sharing Plan identifying the mechanisms for funding all project-specific security/emergency management costs that would be imposed on state and local agencies. If the needed resources are not available and properly funded, construction and operation of the project would not be approved by the FERC. The Coast Guard analyzed the safety, security, and emergency response resources in the area, including Canadian resources. The WSR states on page 77, "The emergency response plan is developed through a transparent, public process that actively involves the USCG, appropriate agencies, and key officials of state and local governments. How this process applies to Canada and whether Canadian officials will wish to be involved are issues as yet to be determined."



CO13

- Current communications capabilities in the Province are inadequate to promptly and comprehensively respond in the event of an emergency involving an LNG vessel in the Canadian waters of Head Harbour Passage and Passamaquoddy Bay. In particular, there is limited interoperability between fire, ambulance and police agencies within the Province—a key success factor in managing threats and events of this scale. More importantly, there also is no interoperability between Canadian and U.S. assets, which in the event of an LNG vessel incident would be critically important to address and control the threat or event.
- A TERMPOL study has not been undertaken (by Downeast LNG or any other party) in order to fully examine the hazards associated with LNG vessels operating in the Bay of Fundy, Head Harbour Passage, Western Passage and Passamaquoddy Bay areas. Such a study is required in Canada with respect to LNG vessel traffic to a Canadian regasification terminal, and should be required for all LNG vessel traffic through Canadian waters.
- The DEIS treatment of safety zones along the LNG vessel transit route is inadequate. Specifically, the vessel transit route does not comply with Canadian standards, CSA Z276-01, as Zone 2 has a thermal flux level of 5kW/m<sup>2</sup> and includes “areas where members of the public can congregate in numbers greater than 50 (e.g., parks, community centers, etc.).” Nearly the entire community of Wilson’s Beach on Campobello Island and Deer Island Point Park are within Zone 2. Moreover, the southwestern end of the Deer Island Point Park peninsula borders Zone 1, precisely the area where the waterway will be its narrowest, thus potentially increasing the level of threat and the resulting risk.
- Concerns over New Brunswickers privacy rights are a critical component of the Province’s analysis. Intelligence gathered or surveillance conducted by U.S. agencies along the vessel transit route very likely would capture data on Canadians acting lawfully within the waterways along the vessel transit route. Such data would not be subject to the protection of Canadian privacy laws.
- Aquaculture in southwest New Brunswick has some of the highest productivity per unit area of any aquaculture operation in the world. The LNG vessel traffic will adversely impact the region’s robust fisheries and aquaculture sectors, including access to fishing grounds and weirs. Noise and lights from LNG vessel operations likely will have detrimental effects on fish habitats and aquaculture operations as well as the seasonal activities and migration of fish. In addition, current detailed site regulation and fish health management regimes have been developed within existing marine traffic patterns.
- The impact of vessel transit on fisheries and the aquaculture sectors is understated in the DEIS. Although a vessel will be arriving every five to seven days in winter and every eight to nine days in summer, the actual impact is more severe, when that figure is compounded with the security cordon surrounding each vessel as it transits the waterway and the weather and tidal restrictions mandated by the U.S. Coast Guard. Therefore, the

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CO13-5

CO13-6

CO13-7

## CO13 New Brunswick Canada, Office of the Premier (continued)

CO13-5 According to the WSR, the Coast Guard’s assessment of the waterway considered Transport Canada’s marine transportation safety standards. The May 2006 review of the waterway to determine whether to retain the current practice of non-compulsory pilotage was sponsored by the Atlantic Pilotage Authority to ensure compliance with the standards of Transport Canada and the Minister of Transport. In addition, as stated in the WSR, Transport Canada and Canadian pilots, among other maritime professionals, were present at the LNG carrier simulation tests conducted by MSI. Transport Canada also participated in the PAWSA process.

The Coast Guard performed a thorough and extensive assessment of the entire waterway and determined it to be suitable for the type and frequency of LNG vessels associated with the Downeast LNG Project (with the implementation of the risk mitigation measures outlined in the WSR). Transport Canada was a participant in the assessment. The Coast Guard’s waterway suitability assessment is similar to the TERMPOL review process under Canada’s Navigable Waters Protection Act. We believe the WSR adequately addresses the safety risks along the vessel transit route and the mitigations for those risks.

Therefore, although a TERMPOL study is not required to be undertaken by Downeast, the concerns that are required to be considered in a TERMPOL study have been addressed in the WSR and the EIS EIS or would be addressed through recommendations put forth in the EIS, including, but not limited to:

- the potential impacts of increased shipping activity on existing regional shipping networks, fishing ground activities, and military operations;
- the environmental impacts attributable to ship traffic, including impacts on fisheries and wildlife, emissions and discharges;
- the suitability of the design ship and the adequacy of the berth and related terminal service requirements, including the design ship’s cargo containment and handling systems in terms of operational safety;
- the navigational safety of the ship route leading to the marine terminal and berthing procedures and provisions, including waterway simulations and waterway suitability assessments to determine maneuverability, tug and pilotage requirements, navigational and communications equipment, aids to navigation, and other vessel traffic services;
- the risks to communities along the route to the terminal, including impacts from accidental ship collisions, allisions, and groundings, as well as intentional events; and
- the adequacy of emergency response planning, including response to LNG releases, fires, emergency ship departures, and communication, alarm and notification systems in response to an emergency.

Similar to a TERMPOL Review Committee, these concerns were evaluated by representatives across a wide range of stakeholders, including multiple staff members across multiple federal agencies in addition to specialized consultants.

CO13-6 FERC's jurisdiction is limited to the regulation of the interstate transmission of electricity, natural gas and oil as it relates to the economic, environmental, and safety interests of the public. FERC's mandate is to determine if the proposed project is in the public interest. Any "intelligence" or "surveillance" gathering activities conducted by FERC, Downeast or their agents would be for the purposes of assessing the environmental impacts of the proposed project and are generally based on publicly available data or data collected in the field based on field observations or scientific field studies. None of these activities should invade the privacy of citizens.

CO13-7 We do not believe that the project would have an adverse effect on the area's commercial fisheries and the tourism industry. We believe project impacts on these resources have been adequately addressed in the EIS and the mitigation measures proposed by Downeast and recommended by FERC staff are sufficient to mitigate or minimize the impacts. The proposed LNG vessel transit route is virtually the same route as currently used by all deep-draft vessels servicing the Passamaquoddy Bay port area.

According to research studies referenced in the WSR, in order to be successful, open ocean aquaculture cannot be located in areas of deep draft vessel traffic and anchorages. The Coast Guard states, "For that reason, the safety of other craft, and the protection of the right whale, designated traffic lanes now exist for large ships traveling between the southeastern entrance to the Bay of Fundy and the port of St. John, New Brunswick. These sea lanes are used by approximately 840 vessels annually, most of them petroleum tankers bound for, or departing, St. John." The once-a-week LNG vessel would not be the only commercial marine traffic in the waterway. Commercial marine activities and the tourism and fishing industries have co-existed in the area for many years. Ships would transit the area approximately every 5 to 7 days in winter and every 8 to 10 days in summer. At an average speed of 10 knots, the vessel would take about 10 minutes to traverse 1000 feet. With scheduling coordination (especially regarding emergency ferry shipments) and course changes this would not be a significant impact on ferry traffic or to ferry users. Sections 4.7.3.1, 4.8.2.4 and 4.8.2.5 discuss the potential impacts on tourism and to the recreational and commercial marine industries, including fisheries.

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PURSUANT TO 18 C.F.R. § 388.112 AND 388.113

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impacts on those existing users of the waterway will be concentrated in a much shorter effective period.

CO13-7  
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- Cumulative impacts on aquaculture and fisheries could be significant enough to erode the full value of the fishery. Further, such a severe impact would have ongoing, ripple effects onshore for the marketing and processing industry.
- A number of ferry routes, including the Grand Manan Ferry, would be affected adversely by LNG vessels transiting Canadian waters in this region. In many instances, the ferries are the only means of ingress and egress from an island, and limiting the ferries' transit capabilities at any time and for any period would have serious adverse consequences for the people of New Brunswick.
- LNG vessel traffic would have severe adverse affects on New Brunswick's tourism sector. The pristine natural environment of the Bay of Fundy, Head Harbour Passage and Passamaquoddy Bay regions is the most significant tourist attraction in New Brunswick.
- LNG vessel traffic also would negatively affect other vessel traffic and access to the Port of Bayside, and could inhibit further development in the region. In addition, there likely would be no economic benefits to New Brunswick from the operation of the Project, and, in fact, it could result in harm to existing businesses.

- Frequent LNG vessel traffic in the Head Harbour Passage and Western Passage would negatively affect planned in-stream tidal energy projects, an important source for environmentally friendly renewable energy. Moreover, Transport Canada, the federal Canadian government agency responsible for activities in Canadian waters, may place exclusion zones around the tidal energy devices, further constraining the route for LNG carriers. Looking to the future, LNG vessel traffic would impede the installation and maintenance of further in-stream tidal energy systems, as well as pose an obstacle for future development of other marine-based, renewable energy projects in the region.

CO13-8

- There are potential negative impacts on certain animal species. Two species of whale, the right whale and the sei whale, which the DEIS identifies as likely adversely impacted by the LNG transit proposal, are protected by Canada's Species at Risk Act ("SARA"). Any adverse effect on either of these species almost certainly would be a violation of SARA. In addition, vessel transit could negatively affect leatherback sea turtles and bald eagles.

CO13-9

- The LNG vessel transit route and the associated security zones may be impacted by tenure agreements that can be issued to individuals or companies occupying upland and submerged Crown lands within the Provincial/Canadian waters. These agreements are under the administration and the control of the DNR. There are existing active commitments and pending applications that may impact the proposed location of the LNG vessel transit route and associated security zones.

CO13-10

CO13-8 Sections 4.7 and 4.13 of the EIS address the potential impacts of the Downeast LNG Project on or in combination with the tidal energy projects proposed to be located in the project area. The majority of these projects consist of underwater turbines that are positioned within the water column and anchored to the bay/ocean bottom. Based on preliminary public information provided by the tidal energy companies, the top of the turbine units would be below the maximum depth of any commercial vessel transiting during low tide. Since the LNG vessels would be transiting the Western Passage at or around slack high tide, the turbines would be considerably below the LNG vessel hull and would not be impacted.

CO13-9 Sections 4.5 and 4.6 of the EIS include discussions of potential impacts on endangered species and species of special concern protected under SARA as well as the ESA and MSA. Since issuance of the draft EIS we have prepared a revised Biological Assessment (appendix C to the final EIS) and have revised our effects determinations on the right, humpback, sei, and fin whales to not likely to adversely affect because of proposed vessel and terminal mitigation measures. The FWS and NOAA Fisheries will prepare their Biological Opinions. Any mitigation measures that they impose must be adopted by the project and would protect species protected under SARA and the ESA and MSA. The FERC would not allow construction to proceed until after we have concluded formal consultation with the FWS and NOAA Fisheries.

CO13-10 As discussed by the Coast Guard in its WSR, the ships visiting the Downeast project would be expected to comply with all applicable U.S. and Canadian laws and regulations applicable to the safe and secure navigation and the regulation of maritime traffic that are consistent with customary international law.

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PURSUANT TO 18 C.F.R. § 388.112 AND 388.113

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- Significant cultural and archeological resources would be impacted by LNG vessel traffic in the Bay of Fundy, Head Harbour Passage and Passamaquoddy Bay. A number of coastal sites potentially would be affected by erosion caused by increased waves from LNG vessels. Also, given the narrowness of the waterway in portions of the transit, the possibility of a bunker fuel spill from all but the most recent models of LNG vessels could affect onshore historic sites. Should an emergency occur and the LNG vessel drag its anchor, it may damage or unearth historic ship wrecks.

CO13-11

While each of these issues individually are of significant concern to the Province, the aggregate negative effects on New Brunswick would be on a scale never previously experienced in the Province. The Department of Intergovernmental Affairs therefore concludes that the Province take every appropriate, reasonable action to ensure that no LNG vessel traffic is permitted until and unless the responsible governments first address the safety, security, and economic well-being of the people of New Brunswick, as well as our environment, economy, and cultural heritage. The DEIS, a U.S. government assessment, fails to address these serious concerns, and in most instances does not even purport to do so. Indeed, attending to these concerns is the combined responsibility of the Canadian Government as well as the Government of the Province of New Brunswick.

CO13-12

Finally, the Department of Intergovernmental Affairs recommends that all Departments within the New Brunswick government should continue on an on-going basis to assess any impacts that LNG vessel traffic may have on the Province. This Report can serve as the foundation for the Province's efforts to protect New Brunswick and its people, but must be treated as part of an ongoing, vigilant process.

CO13-11 The shores along the waterway are generally steep, rocky terrain created by extreme tides and high-energy wave action. These conditions prevent sand deposition; therefore, there are no beach areas that are considered prone to erosion. We recognize the concerns of the Canadian Government regarding spill control and remediation to prevent possible impacts on onshore Canadian historic sites. We believe compliance with MARPOL and VGP requirements would provide adequate protection from LNG vessel discharges and potential spills of fuel, lubricants, and other hazardous materials.

According to the WSR, there are presently no designated anchorages in the area; however, there are three routine anchorages for all large marine vessels, (1) in the Bay of Fundy (controlled by Fundy Traffic) outside of the transit corridor and to the north of Head Harbor Passage; (2) inside the waterway in the vicinity of Friars Bay southeast of Eastport; and (3) inside Passamaquoddy Bay. In most circumstances, LNG vessels would anchor offshore in one of the routine anchorages while waiting for a berth. With the exception of temporary boarding areas established by the Coast Guard, the anchoring or holding of LNG vessels outside of these anchorages would be limited to emergency situations only. Inbound LNG vessels would be escorted by tractor tugs to manage speed and maneuvering, which may eliminate anchoring. Because of these controls we believe the risk of impact on historic shipwrecks is minimal.

We do not believe that any significant cultural, historical, or archaeological resources would be adversely affected by LNG vessel traffic in the waterway to the Downeast LNG terminal.

CO13-12 See response to comment CO13-1. In section 1.5 of the EIS we describe Canadian environmental laws and regulations that may apply to the proposed project. The environmental resources described in the Report are addressed in the appropriate section of this EIS. We acknowledge that complying with the Canadian laws and regulations is the combined responsibility of the Canadian Government as well as the Government of the Province of New Brunswick.

*PUBLIC VERSION - CEII REMOVED  
PURSUANT TO 18 C.F.R. § 388.112 AND 388.113*

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**1 DEPARTMENT OF PUBLIC SAFETY**

This section has been removed as critical energy infrastructure information ("CEII") pursuant to Title 18 of the U.S. Code of Federal Regulations, Sections 388.112 and 388.113.



PUBLIC VERSION - CEII REMOVED  
PURSUANT TO 18 C.F.R. § 388.112 AND 388.113

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**2 DEPARTMENT OF FISHERIES AND DEPARTMENT OF AGRICULTURE AND  
AQUACULTURE, AQUACULTURE DIVISION**

**2.1 Fisheries and Aquaculture Sectors Overview**

2.1.1 In the proposed transit corridor in Head Harbour and Western Passages there are approximately 34 herring weirs and 16 finfish aquaculture sites. This is significantly more than the 8 aquaculture sites and three weirs believed to be operating on the U.S. side of the waterway. It is estimated there will be 4 million fish in cage on the Canadian side and 2 million in cages on the U.S. side for this season alone. *See Exhibit 1.*

CO13-13

2.1.2 Aquaculture in southwest New Brunswick is the most significant industry of its kind in Atlantic Canada and has some of the highest productivity per unit of area of any aquaculture operation in the world. Intricate site regulation and fish health management regimes have been developed *within existing marine traffic patterns.*

**2.2 Public Safety**

2.2.1 One area where fisheries and aquaculture operations differ on public safety and security matters is in advising stakeholders of a pending emergency. Most fishing boats are equipped with radios and the Department of Fisheries assumes any emergency notification would take place over the regular marine guard channels. However, boat and other water craft associated with weir operations or with aquaculture cage sites may not have ready access to radio communication. As a result, they face greater risk in the event that evacuation plans have to be implemented.

**2.3 Economic Impacts**

2.3.1 It also should be noted that many of the fisheries depend on fixed gear that require regular tending. Weirs and trap fisheries must be tended on a regular basis and significant losses in gear, income and resources would occur if access to the gear were impeded for even short lengths of time. LNG vessel traffic, therefore, would result in losses associated with such limited access.

2.3.2 Similarly, aquaculture installations require regular tending for feeding, maintenance and health management. Significant losses in equipment, income and fish health can be incurred if access is impeded for even short lengths of time. Such losses reasonably can be expected as a result of limited access caused by activities associated with LNG vessel traffic.

2.3.3 The aquaculture fish health management regime has created zones for specific year classes. Any significant disruption to aquaculture in the Head Harbour and Western Passage areas could eliminate a full year's production for enterprises, as in some cases all their production for a year may only come from the one area.

CO13-13 See response to comment CO13-7 with regard to potential impact on fisheries and aquaculture. Downeast LNG vessels would increase large vessel traffic in the waterway by as much as 49 percent. We have acknowledged that nearby marine vessels could experience interruptions during an LNG vessel transit. However, the moving safety/security zone around the LNG vessel may not exclude all marine vessels. It would be up to the COTP to determine on a case by case basis which vessels could transit through or operate within the zone. In locations where the waterway is narrow, some mariners attempting to fish in the waterway or travel in the opposite direction of an LNG vessel traveling at 10 knots, including the moving safety/security zone, may need to wait up to 18 minutes for the LNG vessel to pass before resuming fishing activity or proceeding on its way. The delay would increase up to 36 minutes when the LNG vessel is traveling at 5 knots and up to 60 minutes when the LNG vessel is traveling at 3 knots. For mariners near or upstream of the facility, an additional 60-minute delay may be experienced while the LNG vessel is berthed or turned. Mariners and other users of the waterway would receive advance warning of an LNG vessel transit and associated waterway restrictions through various established communication methods and public service announcements. Once the LNG vessel has passed, fishermen would be free to maintain their traps, weirs, and aquaculture cages as usual. Given the limited amount of Downeast LNG vessel traffic, the implementation of vessel traffic management practices, and the advance notice to U.S. and Canadian authorities, we have concluded that impacts on commercial marine activity would not be significant.

Downeast has developed a comprehensive compensation plan to address any potential loss of fishing equipment or income as a result of unavoidable impacts by Downeast LNG vessels. Downeast consulted with individual members of the Cobscook Bay Fishermen's Association, the Campobello Fishermen's Association and other sources to develop this Fishermen Communication, Coordination and Compensation Plan, which Downeast proposes to apply to both U.S. and Canadian fisheries that occur within the waterway from the pilot boarding area in the vicinity of East Quoddy Head to the LNG terminal. To ensure that appropriate compensation and mitigation planning measures are developed, we have recommended that Downeast finalize its Fishermen Communication, Coordination and Compensation Plan prior to operation of the LNG terminal.

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CO13

2.3.4 The fishery in southwest New Brunswick is one of the only remaining multi-species fisheries in Atlantic Canada. The enterprises operating there depend on a mix of different fisheries for economic viability. The loss of any one of the different fisheries would significantly erode the overall viability of all enterprises. The fisheries affected by this proposed Project include:

- Cod use Head Harbour Passage and the northern section of Western Passage as a spawning ground.
- Haddock use the area to the south and west of Grand Manan as a spawning ground.
- The lobster fishery is actively pursued off the north-eastern portion of Campobello Island, in the entrance of Head Harbour Passage and throughout Western Passage.
- The groundfish fishery and the sea urchin fishery are actively pursued in Head Harbour Passage and the southern portion of Western Passage. Head Harbour Passage contains fishing grounds that are in the top 50% of all Bay of Fundy groundfish areas.
- The northern end of Western Passage holds an active Rock and Jonah Crab fishery.
- The scallop fishery extends across the entire transit route, with the eastern end of Head Harbour Passage being particularly important to local fisherman.

2.3.5 Between existing large vessel traffic, Atlantic Canada's largest aquaculture industry, an active multi-species small-boat fishery, and an increasing tourism/whale watching industry, Head Harbour Passage and Western Passage are busy, crowded waterways. The introduction of an increase of 50% in large vessel traffic, as the proposed Project would produce, compounded by large security cordons around the transiting vessel, will further hinder access these stakeholders have to the waterway.

CO13-13  
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2.3.6 Ultimately, the impacts could be significant enough to destroy any remaining economic viability and the full value of the fishery would be eroded. Such a severe impact would have ongoing, ripple effects onshore for the marketing and processing industry.

#### 2.4 Cumulative effects

2.4.1 Consideration of cumulative effects in the DEIS document considers only the other Maine-based LNG projects. The DEIS indicates the Downeast Project will increase large vessel traffic in the area by approximately 50%. Failure of the DEIS to consider a 50% increase in vessel traffic as a cumulative effect appears to reflect the perspective that the ocean and waterways are currently empty, except for existing large vessel traffic. This fails to reflect the intensive use existing users already make of these waterways.

CO13-14

2.4.2 The proposed Project calls for vessels to approach Head Harbour Passage through the Grand Manan Channel, rather than the traditional sea lane in the centre of the Bay of

CO13-15

CO13-14 The proposed Downeast LNG Project would result in increased marine traffic through the Bay of Fundy to the project terminus in the Western Passage by as many as 60 vessels per year. Currently, nearby commercial ports (Port of Eastport, Maine; and Port of Bayside in Canada, near Calais, Maine) typically receive 125 to 130 vessels each year, including ferries, small- to mid-size cruise ships, and cargo vessels. By comparison to the number of vessels received at these ports, the additional Downeast LNG vessels would result in a quantifiable increase of 46 to 49 percent. However, our analysis of the impacts resulting from the increased marine traffic considered not only large vessels but also recreational boats. Sections 4.7, 4.8 and 4.9 of the EIS discuss the impacts of Downeast LNG vessel traffic relative to existing vessel activity associated with commercial fishing, cargo transport, recreational boating, and ferries. Coordination with the Coast Guard and other waterway and port authorities in the area, and advance notice of the arrival and departure of LNG vessels, along with the implementation of vessel traffic management practices recommended by the Coast Guard's WSR, would reduce impacts on other marine traffic, both commercial and recreational. Section 4.13 of the Downeast EIS discusses the potential cumulative impacts of increased vessel traffic from approved, constructed, proposed, or announced projects in Maine and Maritimes Canada.

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CO13

Fundy. This area is currently almost completely exempt from large vessel traffic and introduces a new class of user to the area now used almost exclusively by fishermen.

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2.4.3 From a fisheries and aquaculture perspective, the existing large vessel traffic causes a conflict in usage of the limited ocean space. Fishermen and supply vessels must already contend with large vessel traffic, placing constraints on their use of the water. Increasing the traffic volume by 50% will have a substantial impact on fisheries in Head Harbour Passage, Western Passage and Passamaquoddy Bay. At a certain point, competitive uses of a single space will render existing activities impractical.

2.4.4 Although the DEIS states the increase in traffic will be one LNG tanker every five to seven days in winter and one every eight to nine days in summer, the impact is understated in the DEIS. With the mitigation measures suggested by the U.S. Coast Guard, each tanker would probably require one day to enter and one day to exit, particularly during winter months. As indicated in the DEIS, tankers will not transit at night, in fog, when winds exceed 25 mph or when the sea state is too high. Pilotage authority reviews also suggested LNG tankers should transit at slack tide. Slack tide is also a critical time for hauling lobster traps and working on fish cage feeding and net handling.

2.4.5 Missing from the DEIS is any recognition that in many of these conditions, other fisheries and aquaculture users also are restricted. The impact of LNG tanker traffic, including its tug escort and security cordon will therefore be concentrated in a much shorter effective period. Stating that LNG tanker traffic will involve one tanker every five to seven days does not adequately demonstrate the much more significant presence tankers will have within the "useable" days, or more appropriately, hours available.

2.4.6 Also missing from the DEIS's consideration of cumulative effects are the anticipated impacts of developing tidal energy in Head Harbour Passage and Western Passage. The singular focus on the operations of one LNG plant does not provide an appropriate overview of increasing demands that LNG vessel traffic would have on the limited and busy waterways. By focusing on the single application, the DEIS fails to consider how such application fits within the overall current and foreseeable future uses.

CO13-16

## 2.5 Noise

2.5.1 The DEIS presents information on noise associated with construction and operation of the LNG terminal. Consideration of noise on marine mammals also has been provided. However, no consideration has been given to the impacts of noise on the marine fish in the region. There has been considerable research on the physical and behavioral response

CO13-17

CO13-15 See responses to Comments CO13-7 and CO13-13 above.

CO13-16 See responses to Comments CO13-8 and CO13-14. The EIS is focused on the proposed Downeast LNG Project, however section 4.13 of the EIS addressed the potential cumulative impacts that the proposed project could have in combination with other past, present, or reasonably foreseeable future projects, including tidal energy projects in Head Harbour Passage and Western Passage. Section 4.13 of the EIS addresses the potential impacts of increased large vessel traffic within the waterways.

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CO13

of marine fish to anthropogenic noise, primarily through research conducted on the effects of seismic testing on marine fish and crustacean.<sup>1</sup>

- 2.5.2 Although the studies relate primarily to seismic impacts on fisheries, they provide a starting point for considerations about impacts on fish from loud noise sources, and the noise levels reported in Appendix R of the DEIS would seem to be significant.
- 2.5.3 Noise impacts on fish extend beyond traditional mortality or morbidity. They include the cumulative impact of repeated exposure to anthropogenic noise as it relates to fish behavior. Most fin fish use different areas of the ocean for different functions (e.g., spawning, nursery, juvenile, feeding, etc.). It is believed noise can change the short-term behavior of fish as they avoid the noise source. If noise disruption occurs in an area important to fish for a particular life-cycle function, there is significant concern the fish will avoid that area in the future. Where fishermen depend on capturing fish in specific geographic areas at specific points in the fish's life cycle, noise-induced avoidance can be disastrous to the fishery.
- 2.5.4 Disruption of fish migration by anthropogenic noise is of particular concern. Disruptions of migration patterns is known to drive fish from the area that is traditionally successful for the species and ultimately undermine the stock's resilience.
- 2.5.5 Marine eco-system functioning does have some degree of resilience but our knowledge is limited. Although a certain level of anthropogenic noise may have negligible impacts, the effect is not necessarily linear; at some point noise levels will change the local ecological regime. Some level of noise may be tolerable but cumulative impacts may completely close a fishery. A 50% increase in vessel traffic, particularly where at least five vessels for every LNG transit are anticipated (i.e., tanker and tugs), could reasonably be expected to have significant impacts.
- 2.5.6 The Department of Fisheries suggests that further investigation into the impact of increased noise pollution on fish be undertaken. Modern aquaculture depends on a fine balance of environmental conditions to provide viable yields. Disruption of these fine balances, although not necessarily lethal to fish can increase susceptibility to disease and reduce productivity.

CO13-17  
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CO13-17 Vessel passage along the proposed LNG vessel route would not be significantly different from current large commercial vessel traffic already taking place in the area. The proposed LNG vessel route crosses waters that have historically sustained multiple uses. Noise impacts from LNG and escort vessels would be the same as those from existing vessel traffic on the waterway. Potential impacts from construction and operation noise on fish and wildlife and humans are addressed in sections 4.5.2, 4.6.2, and 4.11.2 of the EIS. Additionally, we address vessel transit noise as being transient in nature and would lessen as the vessels pass and eventually reach background levels (see section 4.7 of the EIS). Section 4.5.2.2 of the EIS addresses the potential impact of terminal and vessel lighting on fishery resources. Downeast proposes to use directional lighting on the terminal and trestle to the extent possible which would minimize lighting impacts on the waterway, and facility and ship lighting would be kept to a minimum level consistent with safety, so as to reduce light pollution effects. However, the marine transfer area for LNG must have a lighting system and separate emergency lighting that meets Coast Guard standards as published in 33 CFR Part 127.09. Downeast would work with the Coast Guard in coordination with Maine DMR and NOAA Fisheries to establish a lighting plan that would meet 33 CFR Part 127.09 while minimizing the impacts associated with artificial lighting on fish and other marine organisms to the extent possible. We believe that the analyses, proposed mitigation measures, and FERC staff's recommended conditions are sufficient to protect the human and animal environments.

<sup>1</sup> See Payne, J.F., Andrews, C., Fancy, L., White, D., Christian, J., *Potential Effects of Seismic Energy on Fish and Shellfish: An Update Since 2003*, DFO Can. Sci. Adv. Sec. Res. Doc 2008/060 (2008), and Abgrall, P., Moulton, V.D., Richardson, W.J., *Updated Review of Scientific Information on Impacts of Seismic*, DFO Can. Sci. Adv. Sec. Res. Doc 2008/087 (2008). Additional information on publications relating to noise impacts on fish may be found at *Bioacoustics - the International Journal of Animal Sound and its Recording* at <http://www.bioacoustics.info/rbpubs.htm>

2.6 Light

2.6.1 Although the DEIS does not include specifics on light levels generated by LNG vessels, it does allude to lighting standards needed as a security measure. Light is known to affect the behavior of at least the herring fishery in the area.

CO13-17  
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2.6.2 There is concern that increased light generation will again lead to changes in fish behavior that could significantly reduce the herring fishery in the area. Although weir fishery represents only 25,000-30,000mt, it is difficult to obtain elsewhere and its disappearance would undermine the entire fisheries sector.



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CO13

### 3 DEPARTMENT OF ENVIRONMENT

#### 3.1 Safety and Security

- 3.1.1 The DEIS repeatedly states that the chances of a marine accident are remote. However, there has been a lack of meaningful modeling to estimate and calculate the potential for marine accidents and spills resulting from a vessel collision or other event. Significant adverse environmental effects could result from a catastrophic spill of LNG. The DEIS does not reflect appropriate mitigation measures or emergency response necessary in order to ensure adequate protection of the environment, including general response to emergencies, responding to an LNG spill, fire fighting capabilities, response to a massive cryogenic event, offshore safety procedures, and communication plans and clean up.
- 3.1.2 According to Canadian standards, CSA Z276-01, a thermal flux level of  $5\text{ kW/m}^2$  “cannot have areas where members of the public can congregate in numbers greater than 50 (e.g., parks, community centres, etc.).” It is important to note that the Downeast Zone 2 ( $5\text{ kW/m}^2$ ) does not meet this requirement. See Exhibit 2.
- 3.1.3 For example, almost the entire community of Wilson’s Beach on Campobello Island including Campobello Island Community School and fire and ambulance service headquarters for Campobello Island are located in Zone 2. Zone 1 is delineated on land along the coast of Campobello at Wilson’s Beach. In the event that an LNG vessel strays from the centreline of the intended vessel transit route, this community could be in Zone 1, characterized by a thermal flux level of  $37.5\text{ kW/m}^2$ , where potential for major injuries, significant damage to structures and severe environmental impacts are likely. See Exhibit 3.
- 3.1.4 Deer Island Point Park, a popular tourist destination and home to a 79-site campground, among other attractions, is entirely in Zone 2. The summer season sees heavy traffic in this park. Moreover, the southwest side of the peninsula borders Zone 1, characterized by a thermal flux level of  $37.5\text{ kW/m}^2$ , where potential for major injuries and significant damage to structures are likely. In the event that an LNG vessel strays from the centreline of the intended transit route, a large portion of the Park could be in Zone 1, which in the event of an incident with a transiting LNG vessel could result in catastrophic damage and loss of human life. See Exhibit 4.
- 3.1.5 In Zone 3, Whitehorse Island is a Class 1 Protected Natural Area (PNA). Under the Protected Natural Areas Act, no person shall enter a Class 1 PNA and/or no activities shall be carried out within a Class 1 PNA.
- 3.1.6 While the very popular community of St. Andrews lies just on the outside edge of Zone 3 for the most part, in the event that an LNG vessel strays from the centreline of the intended transit route, much of the community could be encompassed in Zone 3, increasing the risk of injury and/or structural damage. The waters off the coast of St. Andrews are included in Zone 3. See Exhibit 5.

CO13-18

CO13-18 A discussion of the principal properties and hazards associated with LNG is presented in section 4.12.1 of the Downeast EIS. The safety aspects of LNG transportation by vessel is discussed and summarized in section 4.12.5. The potential safety impacts along the ship route in the unlikely case of an incident are described in section 4.12.5, including areas that would be exposed to radiant heat levels and flammable concentrations. Corresponding emergency response and evacuation planning is discussed in section 4.12.6, and conclusions on marine traffic safety are provided in section 4.12.7.

In addition, the risks associated with transient modes of transportation and risks associated with fixed facilities are different, which must be recognized. CSA Z276-01 is the Canadian standard for the storage, vaporization, transfer, handling, and truck transport of LNG, and is largely based on NFPA 59A, which is the United States standard for the production, storage, and handling of LNG. Both CSA Z276-01 and NFPA 59A explicitly excludes marine transportation of LNG in the scope, and therefore would not be appropriate to apply. As more fully described in response to Comment CO13-5, the risks associated with accidental and intentional events on a ship are analyzed along the route as part of the waterway simulation and waterway suitability analysis process. Both the Downeast EIS and the Waterway Suitability Report analyze the risks associated with LNG transport and risk mitigation measures which must be implemented to minimize these risks. Based on the results of the assessment of potential risks to navigation safety and maritime security associated with the Downeast proposal, the Coast Guard determined the waterway along the proposed carrier transit route would be suitable for the type and frequency of LNG marine traffic associated with this proposed project, provided that the risk mitigation measures defined in the Waterway Suitability Report are implemented as explained in Section 4.12.7.6.

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CO13

3.1.7 No human health and ecological health risk assessments have been carried out to determine the impact of fire, elevated methane levels or cryogenic impacts that could result from an LNG tanker accident or spill in Head Harbour Passage, Western Passage or Passamaquoddy Bay. In addition, in the event of an accidental release of LNG, there could be a resulting negative impact on air quality.

CO13-18  
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3.2 Threatened or Endangered Species

3.2.1 *Whales*

3.2.1.1 The executive summary of the DEIS states that the proposed project (particularly vessel traffic) is "likely to adversely affect" four species of whales that are listed as endangered by American legislation, including two (the North Atlantic right whale and the sei whale) that are listed as endangered under the Canadian Species at Risk Act (SARA). Under Section 32.(1) of SARA, "No person shall kill, harm, harass, capture or take an individual of a wildlife species that is listed as an extirpated species, an endangered species or a threatened species." An adverse affect on a North Atlantic right whale or a sei whale would almost certainly be a violation of SARA.

CO13-19

3.2.1.2 Notwithstanding the legal aspect, in environmental impact assessment terms, an impact on one individual of an endangered species is considered to be a significant environmental impact, given the precariousness of the species.

3.2.1.3 FERC Staff concludes on page 5-15 of the DEIS, based on a Biological Assessment (Appendix C of the DEIS), that the Project is likely to adversely affect endangered whale species, notwithstanding proposed mitigation measures. FERC Staff recommends that, prior to construction, the Project proponent develop a Prevention and Mitigation Manual to identify ways to minimize adverse impacts on listed species. The Department of Environment concludes, however, that *any* mitigation measures would be insufficient to avoid significant impacts to the listed species.

3.2.1.4 The mitigation measures offered such as "forward-watching" whale spotters and training and education of vessel crews do not account for the fact that these vessels may be traveling through sub-optimal weather conditions, including dense fog, and despite the fact that these animals are large, they would be difficult to see if the visibility were low.

3.2.1.5 The DEIS fails to identify what actions could be taken by an LNG vessel in the event that a whale were spotted from the vessel.

3.2.2 *Leatherback Sea Turtles*

3.2.2.1 Although leatherback sea turtles can be 5 or 6 feet long, they would be difficult to spot in sub-optimal weather conditions from an LNG vessel. Also they tend to be near the surface of the water so reducing the vessel's speed likely will not reduce the possibility of an impact. The DEIS does not specify the additional mitigation that could be

CO13-19 See response to comment CO13-9. The FWS and NOAA Fisheries are currently evaluating the mitigations that Downeast LNG has proposed for the right whale and other federally protected or managed species to meet the requirements of NEPA and section 7 of the ESA and MSA. The FWS and NOAA Fisheries will prepare their Biological Opinions. Mitigation measures that they impose would protect species protected under the ESA and MSA. The FERC would not allow construction to proceed until after we have concluded formal consultation with the FWS and NOAA Fisheries. The bald eagle is listed as threatened in Maine and was delisted as federally threatened effective August 8, 2007.

Bald eagle nests within zone 3 would be over 1 mile from the LNG vessels as they pass. The presence of large vessel traffic within the waterway would not be a new type of disturbance for wildlife, but the Downeast LNG Project would increase the frequency of this type of disturbance. The Project would result in an estimated one LNG vessel transit along the waterway every eight to ten days in the summer. Given the distance from the historic bald eagle nests and the expected frequency of LNG vessel traffic, we do not believe the Project would affect bald eagle nests in New Brunswick.

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CO13

offered, including consideration for seasonal fluctuations in the numbers of these turtles in the Bay and additional monitoring to ensure that mitigation measures are effective.

CO13-19  
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### 3.2.3 Bald Eagles

3.2.3.1 It should be noted that there are several known bald eagles nesting in the Province of New Brunswick within the Zone 3 (*i.e.*, Navy Island near St. Andrews, Hospital Island near Deer Island, Nubble Island near Deer Island and White Island also near Deer Island). Although these nests have not been inspected this year, they have been considered active in the past few years. As the bald eagle is listed on the New Brunswick's *Endangered Species Act*, it is imperative that these sites be exposed to as minimum a disturbance as possible. LNG vessel transit could negatively impact the bald eagles.

### 3.3 New Brunswick's Coastal Areas Protection Policy

3.3.1 The following comments are with respect to *New Brunswick's Coastal Areas Protection Policy* (CAPP), which applies to coastal areas in New Brunswick as follows. The CAPP states that "The protection of our coastal areas means the protection of both public and privately held land; the protection of livelihoods as well as personal and community enjoyment; and ultimately, the protection of our coastal environment to ensure that these same opportunities exist for generation to come." The policy describes management approaches for each zone based on their sensitivity.

- **Zone A** - the areas closest to the water known as the coastal lands **core** area;
- **Zone B** - the areas beyond Zone A which provide a further **buffer**;
- **Zone C** - the areas beyond Zone B that form a **transition** from coastal to inland areas.

3.3.2 LNG vessel traffic poses risks of discharges or losses of harmful material or substance into the waterway, including but not limited to, creosote, hydrocarbons, biocides, fresh cement, lime, paint, stains, preservatives, or concrete. Any debris or foreign material must be removed from the waterway and coastal lands, and disposed of, or placed in a manner where it cannot be returned to the coastal area. Moreover, the LNG vessel owner or operator would be responsible for the clean-up of any component materials introduced that might affect the area above and below the ordinary high water mark, should any contaminant be released or equipment, machinery, vessel, or structure, be damaged or destroyed.

CO13-20

3.3.3 LNG vessel traffic is likely to interfere with sensitive species or their habitats (*i.e.*, Harlequin Duck, Common Eider, etc.), or impact sensitive habitats, such as dunes, coastal wetlands, beaches, rocky shores, tidal flats, or the biota associated with these features. Under the CAPP, there is a prohibition on activity or impacts within 30 metres of the area described in the CAPP as the Lower Low Water Large Tide and the Higher High Water Large Tide. This area contains coastal features such as dunes, beaches, rocky shores, coastal wetlands, and tidal flats. There also is a requirement under CAPP for the LNG

CO13-21

CO13-20 We recognize the concerns of the Canadian Government regarding spill control and remediation. All commercial vessels are required by law to operate in accordance with the 1978 Protocol of the 1973/78 International Convention for the Prevention of Pollution from Ships (MARPOL). In addition, discharges incidental to the normal operation of non-recreational vessels, 79 feet or greater in length, are now subject to CWA permitting through the EPA's VGP. We believe compliance with MARPOL and VGP requirements would provide adequate protection from LNG vessel discharges and potential spills of fuel, lubricants, and other hazardous materials. Section 4.3.2.1 of the Downeast EIS has been modified to include a description of VGP requirements in waters of the United States. Section 4.3.2.1 also indicates that Canadian officials have recommended spill prevention through the use of pilots, tugs, improved navigation systems, and similar practices that are generally in use for modern, large commercial vessels (SENES 2007). However, the Coast Guard's WSR points out that there is no compulsory pilotage (although informal use does occur), tug usage, or formal vessel traffic management in Canadian waters along the LNG vessel transit route.

CO13-21 Coastal and marine avifauna and related habitats, including environmentally significant areas near the waterway for LNG marine traffic in Canada identified in the report prepared by SENES Consultants for the Government of Canada, *A Study of the Anticipated Impacts on Canada from the Development of Liquefied Natural Gas Terminals on Passamaquoddy Bay*, are discussed in section 4.5.1.1 of the EIS.

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CO13

vessel owner or operator to indemnify the Crown/Province against all claims resulting from the use or occupation of the subject Crown lands, waterways, or submerged Crown lands. There is no evidence that Downeast or the LNG vessel operator would be able to satisfy these stringent environmental criteria.

- 3.3.4 Finally, the CAPP recognizes the potential impacts of sea level rise and climate change on the marine environment. These factors may increase the severity and frequency of coastal storms that would contribute to the potential deterioration of navigation conditions for LNG vessels. CO13-22

3.4 Environmentally Significant Areas

- 3.4.1 Several environmentally significant areas ("ESAs") occur in the proposed activity area. These provincially recognized sites are important for a variety of wildlife species, contain unique habitats, are important heritage sites, contribute to biodiversity, and are regarded as forming part of New Brunswick's natural capital. See Exhibit 6 for a map and description of the ESAs. CO13-23

3.5 Socioeconomic Impacts

- 3.5.1 The likely socioeconomic impacts of LNG vessel traffic through Canada's Head Harbour Passage would be significant. First, the vessel transit would have significant impacts on commercial fishing operations through Head Harbour, Western Passage and Passamaquoddy Bay. Such impacts would include direct interaction with fishing gear, which could result in significant loss. CO13-24
- 3.5.2 Potential impacts to tourism and eco-tourism in one of New Brunswick's premiere tourism destination areas, encompassing St. Andrews, Passamaquoddy Bay, Campobello Island, Deer Island, and Grand Manan Island could be serious. A Coastal Areas Protection Policy document from 2002 entitled *A Coastal Areas Protection Policy for New Brunswick* states that "Approximately 70% of tourism, worth nearly three-quarters of a billion dollars, is tied directly to the coastal experience, where attractions depend on scenic beauty, as well as clean beaches and waterways."
- 3.5.3 The populations of Deer Island, Campobello Island and St. Andrews all increase during the summer tourist season. It is unclear whether the population estimates in the DEIS include anticipated increases during the summer months.
- 3.5.4 Similarly, whale watching is a significant source of income for New Brunswickers. In fact, the enhanced visual observation equipment for whale watching tour vessels suggested in the DEIS shows a lack of appreciation for this activity, and the Department of Environment strongly believes inadequate mitigation measures have been proposed.
- 3.5.5 The DEIS fails to consider the potential impacts to other marine vessels, be they recreational, commercial, commercial fisheries, eco-tourism, or transportation (e.g., Grand Manan Island, Campobello Island, and Deer Island ferries).

- CO13-22 With regard to the navigation safety of LNG vessels, as part of the waterway suitability analysis, Marine Safety International conducted LNG carrier simulation tests to evaluate a variety of climatic settings from normal/routine to extreme conditions that would be expected to occur over the life of the project. The results of those simulations, which are presented in section 3.5.1 of the Waterway Suitability Report, informed the Coast Guard's decision about the safety of the waterway. The Coast Guard determined that the waterway is suitable for the type and frequency of LNG vessels associated with the Downeast LNG Project as long as the risk mitigation measures outlined in section 4.6 of the WSA are implemented by the applicant.

- CO13-23 Section 4.5.1.1 of the EIS addresses Environmentally Significant Areas near the waterway for LNG marine traffic in Canada that were identified in the report prepared by SENES Consultants for the Government of Canada, *A Study of the Anticipated Impacts on Canada from the Development of Liquefied Natural Gas Terminals on Passamaquoddy Bay*.

- CO13-24 See response to comment CO13-2 regarding transit of Canadian waters, CO13-7 regarding potential impacts on tourism and commercial and recreational marine industries, CO13-10 regarding safe navigation, and CO13-13 regarding the Fishermen Communication, Coordination and Compensation Plan. See EIS section 4.7.3.1 for a discussion of year round and seasonal ferry services in the area. The population densities provided in section 4.8.1 of the EIS are derived from the United States 2010 Census and Statistics Canada 2001 and do not include seasonal increases. No official data for summer populations are available in either census source. The Coast Guard's risk analysis is based on these official population statistics. However, both the Waterway Suitability Report and the EIS (see EIS section 4.8.2) describe seasonal tourist attractions and potential impacts from LNG vessel traffic. We have concluded that LNG vessel traffic would not have a significant adverse impact on tourism.

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CO13

3.5.6 Little or no consideration is given to the potential impacts to existing and proposed aquaculture sites, weirs, fish nursery areas, and commercial fishing areas, and the livelihood these traditional activities provide the local population, and to the contribution to the economic, social, and cultural capacities of New Brunswick must be considered.

CO13-24  
cont'd

3.6 Other Areas of Concern

3.6.1 Any movement or berthing of LNG vessels as proposed would require approval and consultation of many Canadian federal, provincial and local governmental agencies and organizations to address the wide range of concerns associated with the vessel transit and berthing of the LNG vessel at the Project pier.

3.6.2 For example, the number of vessels arriving at the terminal is not clear from the DEIS. Some sections of the document state 1 vessel every 5 to 6 days in the winter and 1 vessel every 8 to 10 days in the summer; whereas other sections mention 1 vessel every 5 to 6 days in the winter and 2 to 3 vessels every 8 to 10 days in the summer. The DEIS fails to adequately address the cumulative environmental impacts of adding LNG vessel traffic to an already busy waterway. Moreover, there is no indication that the LNG vessels' crews would have the environmental awareness training required to address or mitigate these potential risks.

CO13-25

3.6.3 LNG vessel traffic would have potential impacts to the aquaculture industry, an important sector of the New Brunswick's economy and a vital part of the regional ecosystem.

3.6.4 There are a large number of other species of concern along the vessel transit route that the DEIS fails to consider. The Department of Environment considers these critical to a comprehensive and thorough environmental analysis of the Project. Moreover, the Department of Environment has significant concerns about the long-term effects on these species from the introduction of a 50% increase in vessel traffic through the narrow passages that make up the proposed vessel transit route.

CO13-26

3.6.5 For example, the primary wintering habitat of the Harlequin Duck is on the eastern shore of White Head Island, Grand Manan. The Harlequin Duck is listed as Endangered in Eastern Canada. Coastal waters including the Ste. Croix River estuary, Navy Island, Deer Island, Campobello Island, Indian Island, The Wolves, and the Grand Manan Archipelago contain significant populations (~10,000), and important breeding and wintering habitat of the Common Eider, a sea duck of regional importance, as two distinct populations of this species use this area of the Bay of Fundy as wintering grounds. Within these same areas, there regionally important breeding and wintering habitats for a number of sea birds such as Loons, Grebes, Sandpipers, Turnstones, Shorebirds, Phalaropes, Terns, Mures, Cormorants, Guillemots, Razorbill, numerous Gull species, American Bald Eagle, and numerous waterfowl species (such as Brant, American Black Duck, Surf Scoter, Black Scoter, White-winged Scoter, Long-tailed Duck, Bufflehead, Common Goldeneye, and Red-breasted Merganser). There is also a regionally important breeding colony of the Atlantic Puffin at Machias Seal Island.

CO13-25 Section 4.13 of the Downeast EIS discusses the cumulative impacts of the proposed project, including the effects of increased vessel traffic. The EIS has been corrected for consistency to indicate that one LNG vessel would transit the waterway every five to seven days in the winter and one vessel every eight to ten days in the summer.

The WSR stipulates the type of training required for all pilots providing services to LNG carriers and for all emergency responders, stating, "The applicant must develop and successfully conduct full mission bridge simulator training for all pilots providing services to LNG carriers. The training must take into account the full spectrum of vessel design and length, cargo carrying capacity, method of propulsion, steering and rudder configuration, thruster arrangements, and maneuvering characteristics for those carriers being considered for charter. In addition, expanded simulator training incorporating the number and design of tug boats having the minimum performance and operating criteria previously outlined, will be required." The associated PAWSA workshop recommended that LNG vessel crew training standards comply with the Standards of Training, Certification and Watchkeeping (STCW) to ensure crew competency. In addition, Downeast has indicated that it would provide environmental training to vessel crews to identify threatened and endangered species; during inclement weather and periods of low visibility, LNG vessels would be required to reduce speed to allow for safe operation of the vessel and crew. Section 4.6.2.1 of the final EIS includes the complete list of measures, including crew training, that Downeast proposes in order to minimize potential impact on right whales and other marine mammals. With regard to the comment on impacts on aquaculture industry, see response to comment CO13-7.

CO13-26 See responses to comments CO13-21 and CO13-23. A detailed analysis and discussion of species protected under the Endangered Species Act also can be found in the Biological Assessment, included in Appendix C of the EIS.



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| <p>3.6.6 As noted above, the region's environment and ecosystem are particularly significant for the whale populations. The DEIS fails to provide adequate consideration to the fact that the proposed LNG vessel transit may impact important calving grounds of the North American Right Whale and other whale species. Further, there are Harbour Seal and Atlantic Grey Seal habitats, in the waters situated between Deer and Campobello Islands and farther offshore in the waters around The Wolves.</p>   | CO13-27 |
| <p>3.6.7 The Marine Resources Plan of the Southwest New Brunswick Marine Resources Planning Incentive (MRP) recommends under their Marine Ecosystem conservation objectives that the marine resources of The Wolves be protected as critical nursery and fishing grounds, as these islands and their immediate off-shore components, contain unique habitats essential to the continued productivity of the Southwest Bay of Fundy.</p>   |         |
| <p>3.6.8 The Department of Natural Resources concludes that the proposed LNG vessel transit route and the associated security zones may be impacted by tenure agreements that can be issued to individuals or companies occupying upland and submerged Crown lands within the Provincial/Canadian waters. These agreements are under the administration and the control of the DNR. There are existing active commitments and pending applications that may impact the proposed location of the LNG vessel transit route and associated security zones.</p> | CO13-28 |
| <p>3.6.9 The Department of Natural Resources in consultation with the Department of Environment has serious concerns related to potential construction and operation accidents/malfunctions of the proposed Project. In particular, the concern centers on those activities with the potential to negatively impact on life cycle and habitat requirements of anadromous and catadromus fish species. The departments conclude that the DEIS inadequately addressed these issues.</p>   | CO13-29 |
| <p>3.6.10 LNG vessel traffic would disturb marine system birds and other wildlife in the activity area and cause deterioration to important habitats occupied by a variety of species.</p>  |         |

- CO13-27 Harbor and gray seals are discussed in section 4.5.2.1 in the EIS. The right whale is discussed in sections 4.5.2.1 and 4.6.1.1. Further details on the right whale can be found in the Biological Assessment, included in Appendix C of the EIS. The FWS and NOAA Fisheries are currently evaluating the mitigation measures that Downeast LNG has proposed for the right whale and other federally protected or managed species to meet the requirements of NEPA and section 7 of the ESA and MSA. NOAA Fisheries will determine whether or not the federal actions associated with this project would likely jeopardize the continued existence of a listed species. The FERC would not allow construction to proceed until after we have concluded formal consultation with the FWS and NOAA Fisheries. The proposed waterway for LNG vessel traffic would be over 3 miles south of the wolves, and LNG vessels would not impact these islands or the immediate off-shore habitat surrounding these islands.
- CO13-28 As discussed by the U.S. Coast Guard in its WSR, the ships visiting the Downeast project would be expected to comply with all applicable U.S. and Canadian laws and regulations applicable to the safe and secure navigation and the regulation of maritime traffic that are consistent with customary international law.
- CO13-29 In sections 4.3.2 and 4.5.2 of our EIS we describe potential impacts on water quality and aquatic resources, respectively. Section 4.5.2 and our Essential Fish Habitat Assessment (appendix G) evaluate potential impact on anadromous and catadromus fish species. Safety and reliability, including the potential for incidents during LNG vessel transit and operation of the LNG terminal, is discussed in section 4.12 of our EIS. While it is true that certain temporary impacts would result during construction of the terminal pier, namely turbidity, sedimentation and possible indirect impacts on anadromous and catadromous fish species, operational impacts are expected to be negligible. The Downeast EIS is a disclosure document that identifies environmental impacts in adequate detail in accordance with the CEQ regulations for implementing the NEPA (40 CRF 1502.13). We believe that our current analysis of impacts and mitigations for those impacts meets the requirements of the CEQ regulations for implementing the NEPA.

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#### 4 DEPARTMENT OF TRANSPORTATION

##### 4.1 TERMPOL Review Process

4.1.1 As a threshold matter, the Department of Transportation recommends a TERMPOL study be conducted with respect to the proposed LNG vessel traffic and route, even though the proposed Project would not be located in Canada. The TERMPOL Review Process was developed by Transport Canada and is a technical review process applicable to LNG terminals that is used to identify potential hazards along the LNG vessel transit route while in Canadian jurisdiction. There are at least two other recent oil and gas projects, one in Newfoundland and one in New Brunswick, that have used or will be using the TERMPOL review process (TP 743) for their in-depth marine traffic review. Therefore, the Department of Transportation concludes that any LNG vessel proposing to use Canadian waters as part of its transit route should follow Transport Canada's TERMPOL review process.

CO13-30

CO13-30 See response to comment CO13-5.

##### 4.2 New Brunswick Ferry Services

4.2.1 The proposed LNG vessel transit route has safety conflicts with the New Brunswick ferry service routes. The Grand Manan Ferry has 4 vessel trips per day, crossing the LNG tanker route 8 times per day, and thus quite possibly conflicting with the arrival and departure of LNG vessels. There is also a seasonal ferry service to Deer Island and Campobello Island that would be impacted by the LNG tanker movement. LNG vessel traffic, therefore, would conflict substantially with the current transportation protocol by creating a series of traffic conflicts or potential disruptions. See Exhibit 7 for a map of New Brunswick Ferry crossings with the proposed LNG vessel transit route.

CO13-31

CO13-31 Section 4.7.3.1 of this EIS addresses existing ferry operations and potential disruption on these operations as a result of the proposed LNG vessel transit.

##### 4.3 New Brunswick Marine Corridor Users

4.3.1 The proposed Downeast Project would have negative effects on the use of the Port of Bayside. The DEIS states that an LNG vessel can be berthed for 21 hours at an LNG terminal while it offloads its cargo. During such period, marine traffic using the Port of Bayside could be adversely affected by the safety and security zones applicable to transiting and berthed LNG vessels in the passages.

CO13-32

CO13-32 We do not believe that a Downeast LNG vessel at berth (or in the waterway) would have an adverse impact on the Port of Bayside. We also disagree that the Downeast EIS lacks substantive consideration of the impact of an LNG release on marine traffic logistics. The Coast Guard performed a thorough and extensive assessment of the waterway, including potential risks to other marine traffic. The Coast Guard's WSR is included in the EIS as Appendix B. The Coast Guard has acknowledged that, "Due to the relative remoteness of the communities along the Canadian shoreline, low population densities, and lack of critical infrastructure, emergency response inventories and capabilities are limited for the Passamaquoddy Bay region." An ERP and Cost-Sharing Plan must be developed by the applicant to address issues of emergency preparedness; we have included this requirement as part of our recommended conditions in section 5.2 of the EIS. The Commission recognizes that issues of Canadian sovereignty are beyond its purview. It is not clear at this time whether or how the Government of Canada would participate in the emergency planning effort.

4.3.2 In the case of a spill, if it does not ignite, anything in Zone 1 will experience extreme cold temperatures which could lead to cracking of metal. If ignited, anything in Zone 1 and 2 will experience severe temperature increases that could cause significant damage. Given the zones of concern, the DEIS lacks any substantive consideration of the impact of a spill incident on marine traffic logistics and other impacted parties, like the Port of Bayside, as well as other Canadian users of these internal waters. See Exhibit 8 for a map of the Downeast LNG site with Vessel Zones 1, 2 and 3 identified.

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4.4 Marine Traffic Growth in New Brunswick's Head Harbour Passage

- 4.4.1 Regarding the approximately 60 additional vessels per year that would result from the Project, the DEIS failed to detail impacts including safety in addition to congestion. It is the Department's understanding that 60 is not a cap. Thus, the number of vessels could increase beyond 60, as the Project proponent could unilaterally decide to increase the frequency. Such actions potentially would have severe impact on the region's economy and the competing transit of the critical human needs ferry services. Any increase in the number of vessels beyond 60 should require additional authorizations through transparent processes that allow for additional public input.

4.5 Department Requirements in Case of an Incident

- 4.5.1 Given the proximity and direct potentially conflicting usage of the same waterway between New Brunswick ferry services and the proposed LNG tanker route, the Department of Transportation has serious concerns regarding the required emergency protocol in the case of an incident. At present, the protocol is completely inadequate, and upgrading it would require full participation by multiple agencies.

CO13-32  
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## 5 DEPARTMENT OF TOURISM AND PARKS

### 5.1 Tourism Sector Overview

- 5.1.1 New Brunswick tourism contributes approximately \$1 billion in expenditures in the Province, sustaining over 3,440 tourism sector businesses and total tourism sector employment of an estimated 23,000 full-time equivalent jobs. Tourism expenditures in New Brunswick are equivalent to 3.2% of provincial GDP, as compared to Canada's national tourism GDP of 2%. See Exhibit 9 for 2007 and 2008 annual tourism reports.

### 5.2 Tourism in the Bay of Fundy Region

- 5.2.1 The Bay of Fundy is the most visited tourism region of New Brunswick. In 2007, the Fundy Coastal Scenic Drive (New Brunswick's coastline between the Maine and Nova Scotia borders) received a total of 1.3 million domestic visits, and accounted for \$141 million in tourism expenditures. Accommodations within the Fundy Coastal Scenic Drive region hosted nearly half of the Province's room night sales to U.S. and other international visitors. Natural wonders, outdoor experiences, and culture and heritage attractions are top attractions to visit New Brunswick and the Fundy Coastal Scenic Drive region.
- 5.2.2 The Bay of Fundy has been the face of New Brunswick's tourism marketing campaigns to Ontario, New England, and the rest of the world. The St. Andrews resort area and Charlotte County, Passamaquoddy Bay and the Fundy Isles are key New Brunswick tourism destinations, offering exceptional outdoor experiences, spectacular views, and wildlife viewing tours.

### 5.3 Effects of LNG Traffic on Recreational Users in the Region

- 5.3.1 The LNG vessels and their proposed transit route through Head Harbour Passage, Western Passage and Passamaquoddy Bay could disrupt recreational marine users and tourism operations (e.g., sailing, fishing, whale and bird watching, canoeing, kayaking, etc.). This would present a significant safety issue between competing users—small recreational vessels, ferry services, and large vessels. This tanker traffic also could interfere with wildlife, namely birds and whales, which are important to wildlife touring operations.
- 5.3.2 The proposed Downeast site in Robbinston, Maine is directly across from the "signature hole" at the Algonquin Golf Course in St. Andrews. The LNG storage facilities, piers and lights, would all be visible from St. Andrews. The proposed shipping route would make the tankers visible from Campobello Island, Deer Island and the mainland. The aesthetic value of this summer resort area would be compromised, both day and night.

CO13-33

CO13-33 The Downeast EIS discusses the potential impacts on recreational marine users in sections 4.7.3 and 4.8.2. The analysis in section 4.8.2 includes potential impacts on tourism. See responses to comments CO13-7 and CO13-23 in this regard. Visual impacts and safety are discussed in sections 4.7.4 and 4.12, respectively. Figure 4.7-5 demonstrates the view of the LNG terminal from Market Wharf in St. Andrews. The Downeast pier would be about 1.5 to 2.5 miles from the closest points on the Canada shoreline. We have concluded that the pier with a docked LNG vessel would have a moderate visual effect from the viewpoint of St. Andrews (which would include the Algonquin Golf Course). The FERC staff have reached the conclusion that if the project is implemented as proposed with the identified mitigation measures during design, construction, and operation, it would be an environmentally acceptable action.

Each LNG vessel's compliance with MARPOL and VGP requirements would provide adequate protection from LNG vessel discharges and potential spills of fuel, lubricants, and other hazardous materials. We believe that LNG vessel traffic in the waterway to the Downeast terminal would not have any adverse effects on any significant heritage and historic properties along the waterway, and therefore would have no impacts on tourism related to those heritage or historic properties.

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5.4 Risk to Heritage and Historic Properties

- 5.4.1 The “worst case scenario” risk of LNG spill and resulting thermal radiation could damage a significant amount of heritage and historic properties in this area, which are also critical to the tourism industry.

CO13-33  
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## 6 ARCHAEOLOGICAL SERVICES, HERITAGE BRANCH, DEPARTMENT OF WELLNESS, CULTURE AND SPORT

### 6.1 Comments on the DEIS

After a careful review of Section 5.1.9 of the DEIS, Archaeological Services, Heritage Branch, Department of Wellness, Culture and Sport disagrees with the following statements.

In its January 25, 2007 letter to Downeast's cultural resources consultant, the SHPO found that the LNG vessel transit, in and of itself, is not likely to affect aboveground or archaeological resources. We concur. Downeast indicated that no historic structures within the Roosevelt Campobello International Park would be within the Zones of Concern. Downeast identified three properties listed on the NRHP in the town of Robbinston and four individual NRHP listed buildings and one Historic District in Eastport that would be overlapped by the Zones of Concern. In addition, the West Quoddy Head Lighthouse, which is listed on the NRHP, would be within Zone 3. The Coast Guard mitigation measures outlined in its WSR would render the possibility of an LNG carrier incident to a low probability event, and therefore, LNG marine traffic in the waterway is not likely to adversely affect any historic properties.

- 6.1.1 Referring specifically to the Roosevelt Campobello International Park, there is a significant First Nation's archaeological site located along the shoreline of this park. This site is known as the Gooseberry Point site (BfDr3) and has been the subject of two Archaeological Research Projects.<sup>2</sup> This site is significant as it remains one of the very few quarry sites for raw lithic material dating to the Middle Archaic period (ca. 8000-6000 BP). The Gooseberry Point site also was occupied during the Late Maritime Woodland Period (ca. 800 BP) and a small shell-midden is preserved at the site. The shell-midden is susceptible to erosion and given the small size of the site, a small amount of increased erosion could lead to the erosion of the entire Late Maritime Woodland component.
- 6.1.2 As this site is located entirely within the confines of Roosevelt International Park, it should have been referred to and addressed in the Environmental Impact Statement.
- 6.1.3 The DEIS document fails to address potential impacts upon the many Archaeological Resources within the proposed LNG vessel transit route. Exhibit 10 contains tables of those recorded resources, including onshore and offshore sites within 2.5 kilometres of the vessel transit route, shipwrecks potentially within 2.5 kilometres of the vessel transit

CO13-34

CO13-34 In a November 2006 data request, we asked Downeast to consult with the SHPO regarding potential impacts on cultural resources resulting from LNG marine traffic. The SHPO responded to that request, in a letter to Downeast's cultural resources consultant, that LNG vessel transit, in and of itself, is not likely to affect aboveground or archaeological resources, and no further work is necessary along the waterway for LNG marine traffic. In the unlikely event of an LNG spill and fire, cultural resources (primarily aboveground) within the Sandia Zones of Concern could be affected. However, the implementation of the risk mitigation measures recommended by the Coast Guard in its WSR would render the likelihood of an LNG spill very low.

Section 4.10.2.1 of the final EIS discusses the Roosevelt Campobello International Park, and other previously recorded historic properties along the waterway for LNG vessel traffic to Downeast's terminal. The literature and site file search conducted by Downeast did not identify any historic shipwrecks or archaeological sites eligible for nomination to the NRHP along the waterway in Maine. Archaeological sites in Canada would not qualify as historic properties under the definitions of the NHPA and 36 CFR 800. Nevertheless, as stated above, no archaeological sites along the waterway would be adversely affected by LNG vessel traffic.

With regard to potential shoreline erosion, we have concluded that the risk of erosion along the waterway is minimal. The majority of shoreline along the waterway is generally steep, rocky terrain created by extreme tides and high-energy wave action. These conditions prevent sand deposition; therefore, because beach environments and tidal wetlands are limited in the project area, there are few areas considered prone to erosion. Additionally, the LNG vessels and associated escort traffic would travel at speeds equal to or less than 10 knots per hour; therefore, no erosion or disturbance of shoreline soils is anticipated.

<sup>2</sup> Turnbull, C. J., *Gooseberry Point Site: Preliminary Report*. Report on File, Archaeological Services, Fredericton, NB (1981); Suttie, B. D., *Final Report: Testing and Reconnaissance at the Gooseberry Point site (BfDr3)*. Report on File: Archaeological Services, Fredericton, NB (2004).

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CO13

route, and onshore and offshore sites within 2.5 kilometres of vessel transit route (pre-contact). See Exhibit 11 for maps of the sites.

CO13-34  
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6.2 Onshore Oiling

6.2.1 The Environmental Sensitivity Index ("ESI") Mapping used by NOAA's Office of Response and Restoration generates ESI maps for planning spill response prior to a spill occurring. One of the three categories included on these maps are Human-use Resources, which are further subdivided into four sub-classes – the first being areas of archaeological importance or a cultural resource site.<sup>3</sup> Because of the nature of onshore spill responses, which often require turning over and removal of large amounts of sediment at the water's edge, most of the currently recorded archaeological sites within the proposed LNG transit could be directly impacted by spill response and restoration activities. Although the LNG tankers will not be hauling large amounts of crude oil, they will still have large amounts of bunker fuel oil aboard. The DEIS fails to recognize the adverse effects on archaeological resources of a large spill of this material into the narrow confines of the proposed LNG tanker transit route. In accordance with NOAA's spill preparation planning, the recorded archaeological resources within the proposed transit area should be recognized and identified.

CO13-35

6.3 Effects of Increased Wake on Archaeological Resources

6.3.1 Despite the conclusion of the DEIS to the contrary, it remains entirely unclear as to the effect that the resultant wake from the LNG vessels and their escort tugs will have on onshore and submerged archaeological sites. Indirectly we know that a ship which reverses its engines while underway in relatively shallow water can move large amounts of sediment on the seabed. An entire Basque shipwreck was exposed in Red Bay, Labrador in 2004 when a cruise ship entered the harbour and reversed its engines to slow down. This is a possibility in the confines of the proposed LNG transit, including Head Harbour Passage and Western Passage, and an unmonitored archaeological site which was exposed in this manner would quickly erode if not immediately identified and reburied.

CO13-36

6.3.2 Studies of the direct effects of onshore wake on archaeological sites have been widely conducted and reported, but primarily for lacustrine and estuarine environments.<sup>4</sup> The general consensus of all of these studies is the need to study the potential impacts directly on the characteristics of the study area. For example, studies of erosion caused by the transit of large ships in the Montreal area found that when a voluntary speed restriction was established by the ship operators, erosion within the study area reduced by 45% on

<sup>3</sup> National Oceanic and Atmospheric Administration, NOAA's Office of Response and Restoration Website: Internet Resource, accessed June 11, 2009, at <http://response.restoration.noaa.gov/#2>.

<sup>4</sup> Murphy, J., G. Morgan and O. Power, *Literature Review on the Impacts of Boat Wash on the Heritage of Ireland's Inland Waterways. Final Report*. University College Cork, Hydraulics and Maritime Research Centre, Aquatic Services Unit and Moore Marine Services Ltd. The Heritage Council of Ireland. Kilkenny, Ireland (2006).

CO13-35 We recognize the commenter's concerns regarding the impacts of a fuel spill on archeological resources along the waterway. We believe compliance with MARPOL and VGP requirements would provide adequate protection from LNG vessel discharges and potential spills of fuel, lubricants, and other hazardous materials. See response to comment CO13-33.

CO13-36 As stated in the EIS, LNG vessels and associated escort traffic would travel at speeds equal to or less than 10 knots per hour, which is the maximum speed assumed in the simulation trials conducted for the Coast Guard's risk assessment. In addition, NOAA Fisheries-regulated practices to protect the right whale limit vessel speed to less than 10 knots during times and in areas where relatively high right whale and vessel densities overlap (50 CFR 224.105). Water under the keel of the LNG carrier would be no less than 25 feet at any given point along the waterway, decreasing the likelihood of resuspension of bottom sediments and resulting turbidity from hull sheer stress or propeller wash. In addition, sedimentation and erosion impacts associated with the proposed LNG marine traffic are consistent with the existing marine traffic in Passamaquoddy Bay, Western Passage, and Head Harbour Passage. We believe the impacts on archeological resources from LNG marine traffic would be negligible.

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average per annum.<sup>5</sup> Due to the large number of sites in and around the proposed LNG vessel transit this issue must be explored further.

CO13-36  
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#### 6.4 Anchoring

- 6.4.1 While no anchorage is expected within Head Harbour Passage, the effects of anchor drags from large ships have been well documented – some drags being as deep as 2 metres and as wide as 5 metres across.<sup>6</sup> These drags can extend for hundreds of metres and be pulled through anything they encounter on the seafloor. As there are recorded shipwrecks and pre-contact archaeological sites within the proposed transit area, some care should be taken to identify resources within the transit area and avoid them. In the event this Project commences operations and an emergency situations occurs, vessels could be forced to anchor the vessel along the transit route, despite prohibitions on the same contained in the U.S. Coast Guard's Waterway Suitability Report.

CO13-37

CO13-37 We recognize the commenter's concern about anchor drags from large ships. According to the Waterway Suitability Report, there are presently no designated anchorages in the area; however, there are routine, established anchorages for all large marine vessels. We presume these anchorages are free of archeological sites. LNG vessels would not be allowed to anchor in Friar Roads while waiting for a berth; anchoring or holding in this situation would occur offshore. With the exception of temporary boarding areas established by the Coast Guard, the anchoring or holding of LNG vessels within Friar Roads would be limited to emergency situations only, which inherently are beyond anyone's control. Inbound LNG vessels would be escorted by up to four 60 ton bollard-pull tractor tugs to manage speed and maneuvering, which may eliminate most anchoring situations.

<sup>5</sup> Dauphin D., *Influence de la navigation commerciale et de la navigation de plaisance sur l'érosion des rives du Saint-Laurent dans le tronçon Cornwall - Montmagny*, Service du transport maritime, ministère des Transports du Québec, 103 p. = maps + appendices (2000).

<sup>6</sup> Natural Resources Canada, *Human Effects on the Harbour* (2007). Internet Resource Accessed June 11, 2009, [http://www.nrcan.gc.ca/halifax/human\\_effects-eng.php#anchoring](http://www.nrcan.gc.ca/halifax/human_effects-eng.php#anchoring).

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## 7 BUSINESS NEW BRUNSWICK

### 7.1 Limited Economic Benefits for New Brunswick

7.1.1 Business New Brunswick has not determined that any economic benefits would accrue to New Brunswick from the proposed LNG terminals in Maine. Initially, benefits may be experienced through increased employment in the development phase but no long-term benefits exist.

CO13-38

### 7.2 Port of Bayside

7.2.1 The Port of Bayside was once a federal port until its sale to a local group. The Port of Bayside maintains approval to operate from Transport Canada and has been granted ISPS (International Ship and Port Security) approval. See Exhibit 12 for tables identifying the products shipped, number of ships and tonnage at the Port of Bayside from 2000 to 2007. Other vessel traffic in the area, such as fishing, tourism and ferry traffic are the responsibility of other government departments.

7.2.2 Activities at the Port of Bayside could be disrupted by LNG vessel traffic, including the security zones in Head Harbour Passage, Western Passage and Passamaquoddy Bay. Such result is an unacceptable outcome.

CO13-39

### 7.3 Effects of LNG Vessel Traffic on Regional Development

7.3.1 The overall economic vitality of the region may be negatively affected by the introduction of LNG traffic to the Passamaquoddy Bay area. Of particular concern is the loss of shipping activities as a result of the LNG vessel traffic. There has been a failure to engage all stakeholders from all impacted activities in determining their likely losses as a result of the proposed LNG operations.

7.3.2 Several attached exhibits provide further economic and population information on New Brunswick and Charlotte County. See Exhibit 13-15.

CO13-38 Most of the economic benefits of the proposed project would occur in Washington County, Maine. However, the implementation of a compulsory pilotage program most likely would benefit both U.S. and Canadian pilots. The indirect benefits of the project (i.e. purchases of goods and services by Downeast employees and their families) also could benefit nearby Canadian communities.

CO13-39 We do not believe that the overall economic vitality of New Brunswick would be negatively affected by the proposed project. See responses to comments CO13-7 and CO13-31. We have concluded that the Downeast LNG Project, together with the other existing or potential marine developments in the area, would contribute to increased vessel traffic along the waterway. However, the mitigation measures proposed by Downeast as outlined by the Coast Guard in its WSR would minimize the impacts. We believe that the LNG vessels and those vessels serving the Port of Bayside can co-exist in the waterway.

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## 8 DEPARTMENT OF ENERGY

### 8.1 Potential for In-Stream Tidal Power and Impacts on Vessel Transit

- 8.1.1 New Brunswick's location on the Bay of Fundy presents a number of opportunities for renewable energy projects, particularly for tidal power. The Department of Energy has been exploring the potential for in-stream tidal power in the Bay of Fundy for a number of years and to date has authorized one company to explore the potential for tidal power in the region. See Exhibit 16 for a map of the proposed areas.
- 8.1.2 Specifically, the Passamaquoddy Bay area including Head Harbour and Western Passages have been identified as areas of interest for further exploration of the potential to extract energy from tidal currents via in-stream power projects. This area is one of the highest potential areas for this clean, renewable energy in New Brunswick. Discussions with Federal agencies including Transport Canada have identified areas of concern for multi-use activities such as deep draft vessels and in-stream tidal power devices.
- 8.1.3 One issue under consideration in the discussions is the potential application of exclusion zones around in-stream tidal devices in order to ensure vessel traffic does not interfere with such devices. Should Transport Canada decide to implement exclusion zones around in-stream tidal energy devices, such zones likely would have an impact on LNG traffic.
- 8.1.4 The Department also has some concern about the security zones around transiting LNG vessels. Such security zones may impede activities in the Passamaquoddy area and could restrict operation and maintenance activities of in-stream tidal devices should they be implemented in the future.

CO13-40

CO13-40 This issue should be addressed during any review conducted by the Government of Canada. See also responses to comments CO13-8 and CO13-10.



CO14

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St. N.E. Room 1A  
Washington DC USA 20426

Project Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001

Response to Downcast FERC Environmental Impact Statement

Impact of LNG on Marine Mammals in Passamaquoddy Bay

September 5, 2009

Dear Mrs. Salas,

Our group, Friends of Head Harbour Lightstation, Inc., a charitable, non-profit group based on Campobello Island, has the ownership of Head Harbour Lightstation. This 1829 light has Federal Heritage status, one of 21 lights with this status out of 580 left standing in Canada. As a board member of Head Harbour Lightstation, Inc. and a volunteer, I have spent a thousand hours at the lightstation working, and at the same time, observing the marine life around the lightstation.

We have many kinds of whales immediately around Head Harbour Light Station area, which is located at the mouth of Head Harbour Passage. Just beyond the rocks where the deep Head Harbor Passage opens to the bay is a place where the strong tidal currents carry and concentrate the fish, plankton and nutrients from Passamaquoddy, Cobscook and St. Andrews bays. Yesterday, Sept 1<sup>st</sup>, I counted 10 finback whales, three humpback whales, several minke whales and two right whales feeding here. These whales are all immediately around the mouth of the narrow Head Harbour Passage. There are also several hundred porpoise which use this location at all times of the year, and many blue fin tuna. Herring and other food fish for the whales and tuna are abundant enough to attract these marine mammals.

We stayed overnight at the lighthouse on the last day of August. Very early in the morning I went outside to look at the luminous water in the moonlight. The bay was calm and I could hear the patter of millions of small fish on the surface of the water. I could also hear the constant puff of porpoise breathing as they came and went in and out the passage to the open bay. Over this I could hear the blows of many whales, some close and some distant. The night chorus of birds and the occasional singing of seals on the ledges complete the scene. This passage and bay are filled with life. This is a marine oasis, a rare concentration of living wild creatures that live here and depend upon the food and shelter this area produces for them.

1

CO14

We have tourists from everywhere, including Europe, that tell us how special this place is. We know this, and we are very concerned. Watching the short videos of the humpback whales you will realize that they are slow moving. They often hover in the water, or sink and lie just under the surface. They can be motionless and invisible in the water for periods of a few minutes. These endangered whales are vulnerable. They do not flee boats and care must be exercised around them.

The two right whales we have around the lighthouse right now are scarred. One has entanglement scarring and the other has half a tail because one tail fin is sliced off, probably from a large ship propeller. Right whales do not flee boats. They are slow moving and often move just under the water, but close to the surface. This makes them extremely vulnerable to boat and ship traffic. The videos of the right whales near the light station will show just how invisibly they move in and just under the water.

The finback whales feed cooperatively in a large group of from six to 10 whales. They often are circling and diving just at the mouth of Head Harbor Passage right in the tanker lane. The finback videos show how they fill the passage with their feeding maneuvers.

All these whales consider this place a kind of refuge where food is still available when it is not available elsewhere. The finbacks and minkes live here in the summer months within the circle of islands and communities in the area. There is a reason they do not move elsewhere.

This is a special oasis of life which can compare to marine parks anywhere on the globe, in spite of its small size. The configuration of the bays connecting to the passages, and the huge tidal range, make the food concentrate in the passages: the nutrient rich corridors, where most of the life can be found. This rare abundance of marine life needs to be nurtured, protected, respected and celebrated for the gift it is. The value of this abundance to the surrounding communities is beyond price. It is the foundation of all our worth as communities, and everything we value as communities.

There is a contrary value system at work in our location. This involves power, profit and two LNG terminals on the Maine side of the bays. There are risks with the transportation of LNG; however, the industrialization of these small, enclosed bays brings certain destruction to the marine life we value. Industrialization is incompatible with biological life in general. Its by-products are certain to eventually degrade the bays with pollution, chemicals, disturbance, light, noise and harassment.

CO14-1

CO14-1 We understand your concern for the aquatic species in the area of the proposed project. The United States has regulatory agencies, namely FWS and NOAA Fisheries, who share the responsibility for implementation of the ESA to ensure the protection of listed species. The FWS and NOAA Fisheries will prepare their BOs, determining whether or not the federal actions associated with this project would likely jeopardize the continued existence of a listed species. The FERC would not allow construction to proceed until after we have concluded formal consultation with the FWS and NOAA Fisheries.

NOAA Fisheries limits vessel speed to less than 10 knots during times and in areas where relatively high right whale and vessel densities overlap. Speeds of 10 knots or less have been documented to result in a reduced risk of vessel strike to whales. The final EIS has been revised to include additional measures that Downeast proposes to implement during construction and operation to minimize potential impact on marine mammals from vessel traffic.

CO14-2

CO14-2 The potential impact on marine life in the project area is addressed in section 4.5.2.2 of the EIS, including the potential for release of hazardous substances, disturbance from human activity and vessel traffic, light, and noise.

CO14

The configuration of the bays and passages which carries all the nutrients to concentrate in the rich living passages, especially Head Harbour Passage, will also bring all the by-products of industry to the passages, concentrating adverse effects in the most vital areas. It will only take a collapse of plankton, the prey base, to eliminate marine life here.

CO14-2  
cont'd

I am aware that the FERC process is designed to look only at details and not the whole picture. However, the FERC needs to be made aware of the whole picture. A decision for LNG terminals in Passamaquoddy Bay, or in the mouth of the St. Croix River, will shift the balance of growth toward massive heavy industry. This will be a watershed decision for our area, because LNG, an energy source, quickly draws other heavy industry to the same location. This kind of a decision would set in stone the future direction of growth. These small, quiet residential communities would quickly be overwhelmed with industrial growth. This kind of decision cannot be undone.

CO14-3

A decision in favor of LNG terminals here in this marine oasis is morally and ethically the wrong decision. It is incompatible with our vision for our communities, destructive to our way of life, destructive to our rich marine and environmental heritage, and destructive to the quality of our future growth and potential.

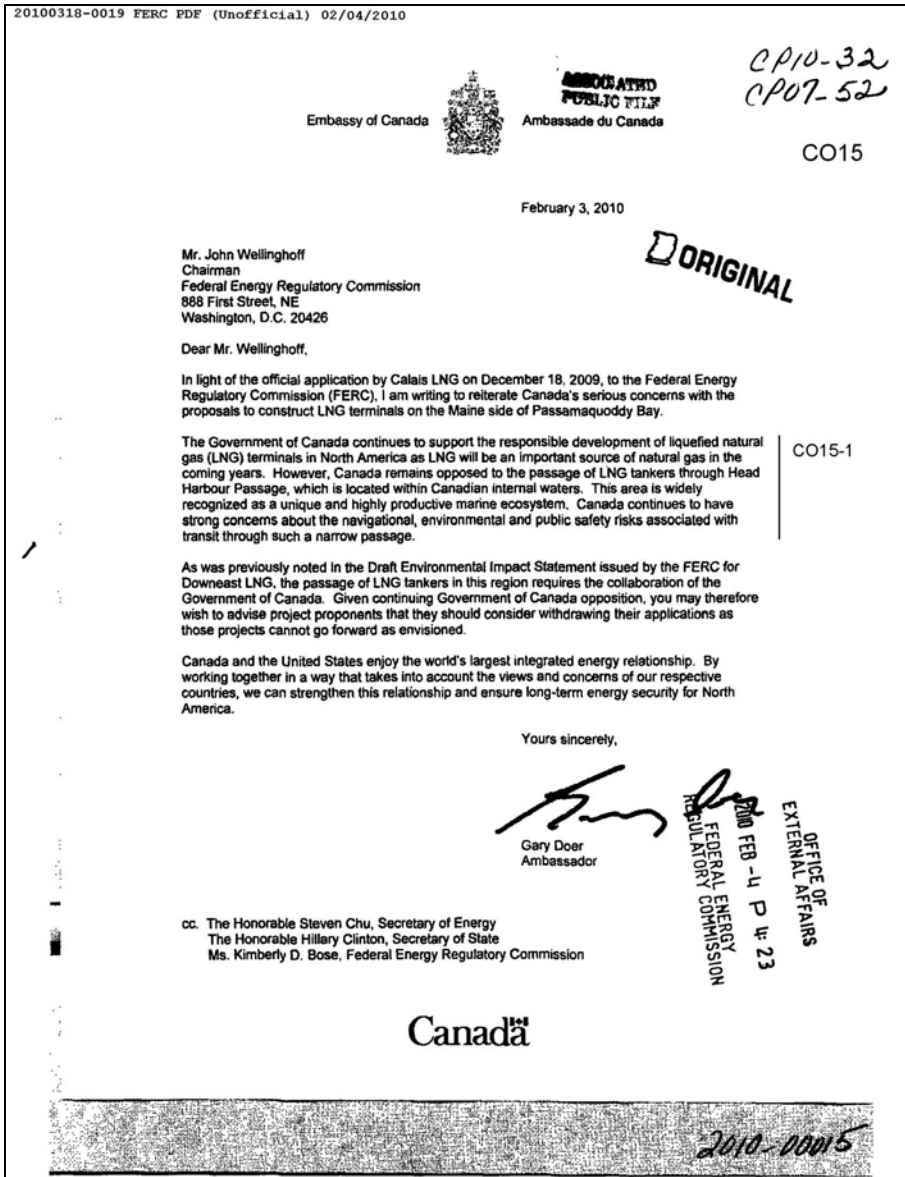
I took all the short enclosed videos were taken between Aug. 29<sup>th</sup> and Sept. 3<sup>rd</sup> from the helicopter pad at Head Harbour Lightstation at the mouth of Head Harbour Passage. Please take the time to look at them. They will give you a feeling for the value of our environment, the vulnerability of the whales, and the richness of our marine life in a way that words cannot match.

Sincerely,

Joyce Morrell

3

CO14-3 The proposed Downeast LNG facility is not intended to encourage the clustering of heavy industry by providing a nearby energy source; currently no nearby heavy industry is proposed to receive natural gas from the terminal. Downeast stated in its application that the purpose of the project is to establish an LNG marine terminal in New England capable of receiving imported LNG from LNG vessels, storing, and regasifying the LNG to provide an additional supply source of natural gas to the New England region.




CO15-1

CO15-1 Comment noted.

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CO16 COPY



**TOWN OF ST. ANDREWS**

ORIGINAL

FILED  
SECRETARY OF THE  
COMMISSION  
2010 APR 21 A 9 24  
FEDERAL ENERGY  
REGULATORY COMMISSION

Monday, April 12, 2010

Governor John Baldacci  
1 State House Station  
Augusta ME 04333-0001

Dear Governor Baldacci :

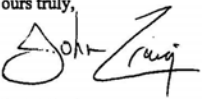
**Re: LNG in Passamaquoddy Bay – FERC Docket Numbers CP1-32 & CP07-52**

On behalf of the Town of Saint Andrews, I would like to express our opposition on the LNG facilities proposed for Passamaquoddy Bay. This type of development in the proposed locations will have a significant negative impact on the fishery, aquaculture and tourism which are the economic basis for our Town. We are a resort town, not unlike Camden, Rockport or Kennebunkport. The attraction of this Town to summer residents and tourists depends on the natural environment and a feeling of safety and security.

The safety and security of the citizens of Saint Andrews, Charlotte County and the Province of New Brunswick would be placed in a most precarious position with an LNG development so close to the international border. As they have told us, the LNG proponents have no legal responsibility for the supply of emergency services in the event of an accident. The emergency services in this area of New Brunswick have neither the resources nor the training to even begin to respond to an LNG incident. To consider imposing this risk on those who can not protect themselves is not the right way to be a good neighbour.

The residents of this Town, our Province and the Government of Canada are united in opposition to these projects. We strongly support Save Passamaquoddy Bay US in their work to draw attention to the inappropriateness of these projects for our shared waters.

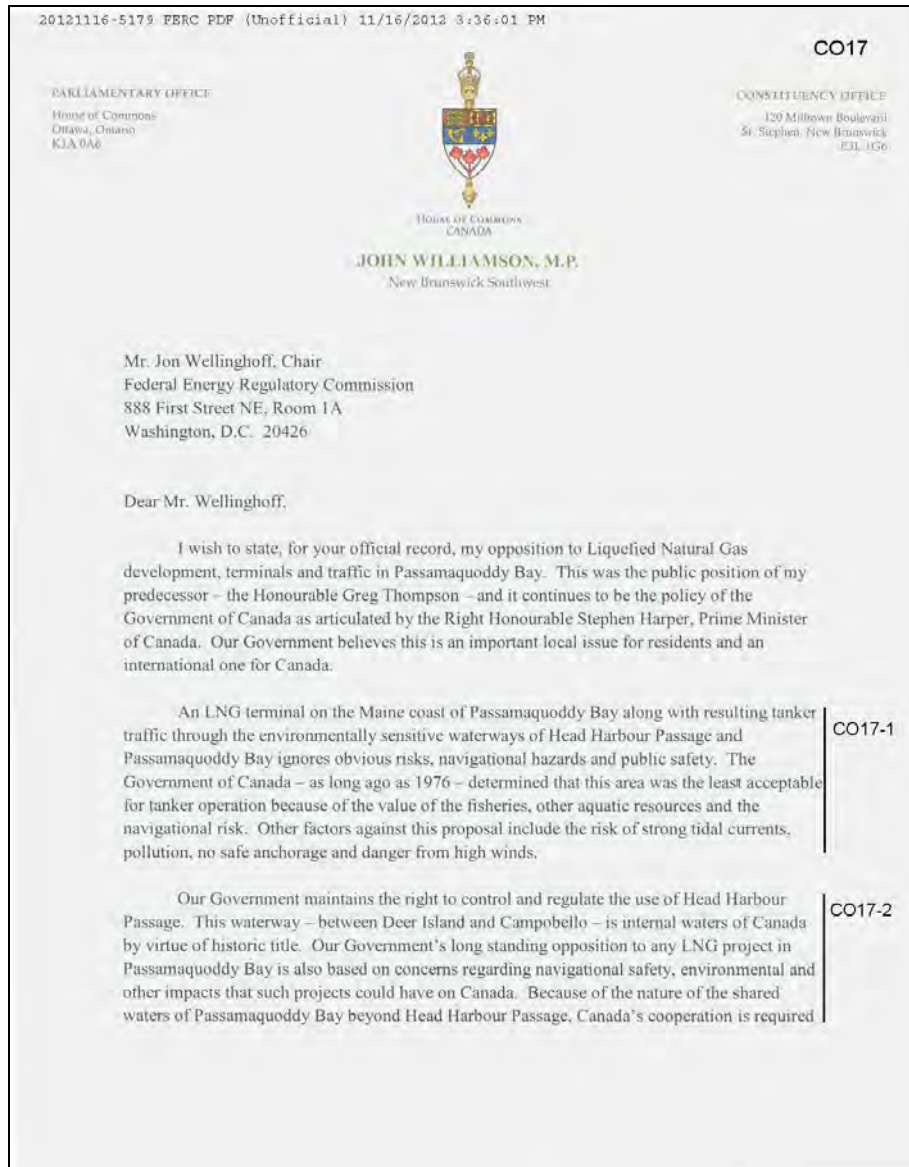
Yours truly,



John D. Craig  
Mayor of Saint Andrews

212 Water Street, St. Andrews, New Brunswick, Canada E5B 1B4  
Tel: (506) 529-5120 • Fax: (506) 529-5183 • [www.townofstandrews.ca](http://www.townofstandrews.ca)

- CO16-1 Our analysis of potential impacts of the project on local economies and tourism is included in section 4.8 of the EIS. Section 4.8 of the final EIS has also been updated to include additional information on recent investments to the tourism industry and economy in Saint Andrews as identified in comments filed with Commission since publication of the draft EIS.
- CO16-2 Our evaluation of the reliability and safety of the proposed LNG facility is included in section 4.12 of the EIS. In addition, Downeast is required to develop an Emergency Response Plan with a Cost-Sharing Plan to address the funding of project-specific emergency management costs assumed by state and local agencies. Emergency response and evacuation planning are specifically discussed in section 4.12.6 of the EIS. Section 3A(e) of the NGA and Section 311 of the EPCRA of 2005 stipulate that, in any order authorizing an LNG terminal, the Commission require the LNG terminal operator to develop an ERP in consultation with the Coast Guard and state and local agencies. The ERP would be developed in coordination with the Coast Guard; state/provincial, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal/tribal agencies. In addition, we have recommended that Downeast should seek written authorization from the FERC before commencement of service at the LNG terminal. Such authorization would only be granted following a determination that appropriate measures to ensure the safety and security of the facility and the waterway have been put into place by Downeast or other appropriate parties.



CO17-1 Our evaluation of the reliability and safety of the proposed LNG facility and LNG vessel traffic is included in section 4.12 of the EIS. The Coast Guard's evaluation of the suitability of the proposed waterway for LNG marine traffic is discussed in section 4.12.5.5 of the EIS.

CO17-2 We recognize that Canada has concerns relating to LNG vessel passage through its waters. However, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal.



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CO17

to ensure safe passage. That cooperation has not been forthcoming and it should not be expected.

As a Member of Parliament on the government benches, I can state categorically that Canada's position remains unchanged. We will continue to use all diplomatic and legal options to defend our interests, which is to reject the passage of LNG tankers through Head Harbour Passage. As such, proponents of any LNG projects in Passamaquoddy Bay should not expect these projects to go forward.

Finally, I want to recognize the work of citizens on both sides of the Canada-U.S. border who have been involved on this important issue for many years. I will be working closely with concerned residents as we continue to work for the environmental integrity of Head Harbour Passage and Passamaquoddy Bay.

Yours truly,



John Williamson, M.P.  
New Brunswick Southwest

CO17-2  
cont'd



## TOWN OF SAINT ANDREWS

January 8, 2013

Mr. Jon Wellenhoff, Chair  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington D.C. 20426

Downeast LNG Project, Docket Nos. CP07-52-000, CP07-53-000 and CP-53-001

Dear Mr. Wellenhoff,

The Council of the Town of Saint Andrews, New Brunswick, passed a motion of Council at the regular meeting of Council today, January 7, 2013, that I, as Mayor of the Town of Saint Andrews write to you to express our continuing opposition to Liquefied Natural Gas development, terminals and traffic in Passamaquoddy Bay. Council specifically opposes the continued applications for approval by Downeast LNG.

The Downeast LNG project, if developed, would be located directly across the St Croix River from the Town of Saint Andrews, New Brunswick. Saint Andrews is a flourishing, year round tourist destination as well as a site for Federal and Provincial marine research, college education and has a vital business community. The Town has a busy harbour with year round aquaculture supply ship traffic, seasonal cruise ship traffic, traditional fisheries, whale watching and tourist excursion visits, and an active yacht club with local and international sailing traffic. The arrival of LNG tankers in Passamaquoddy Bay and the St Croix River and the indicated restriction of shipping traffic would significantly affect the economic viability of our tourism businesses.

CO18-1

The Town of Saint Andrews continues to have concerns over the potential inherent dangers that have been identified with Liquefied Natural Gas plants. The need to have enhanced emergency services would have a significant cost to the Town. The proximity of the plant directly across the river from the Town has many other economic and safety concerns for the Town residents and visitors.

CO18-2

Council and the residents of the Town of Saint Andrews have consistently expressed our opposition to LNG development. Council wishes to specifically express our opposition to the Downeast LNG application.

Sincerely,

Stan Choptiany, Mayor  
Town of Saint Andrews

Cc: Mr. John Williamson MP  
Mr. Curtis Malloch MLA

212 Water Street, Saint Andrews, New Brunswick, Canada E5B 1B4  
Tel: (506) 529-5120 • Fax: (506) 529-5183 • [www.townofstandrews.ca](http://www.townofstandrews.ca)

CO18-1 See response to comment CO16-1.

CO18-2 See response to comment CO16-2.

## INDIVIDUALS

### IND1 Brian W. Flynn

---

IND1

**RADM BRIAN W. FLYNN, ED.D.**  
ASSISTANT SURGEON GENERAL (USPHS, RET.)  
P. O. Box 1205  
SEVERNA PARK, MARYLAND 21146  
410-967-6682

June 1, 2009

Kimberly D Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

Ref: Downeast LNG DEIS (Docket Numbers CP07-52-000, CP07-53-000, and CP07-53-001)

Dear Ms. Bose:

In reviewing the Draft Environmental Impact Statement (DEIS) for Downeast LNG, I have encountered several areas of serious concern and omission. I wish to comment specifically on the document's lack of objective information and analysis to assure a comprehensive and objective assessment of issues related to the public's health. I am referring to the wide variety of considerations with respect to medical issues as well as public health issues (including behavioral health) impacting individuals, families, communities, and government entities.

This DEIS appears to generally dismiss adverse impact on the public due to the "extremely remote" likelihood of a container failure and subsequent LNG spill (ES-5). Sound Federal stewardship, and existing Federal practice in other contexts, demands that even low probability, high impact events be addressed and planned for.

IND1-1

Irrespective of the relative safety of any energy or transport technology, any sound development and review process assesses at least the following elements to safeguard the public's health:

IND1-2

- Event risk assessment (identifying the range or potential hazards/risks)
- Health risk assessment (e.g., potential health needs in the event of an incident such as burn and crush injuries, specialized pediatric, gerontology, behavioral health consequences, etc.)
- Assessment of complicating variables (e.g., islands, geopolitical boundaries, weather, low tax base, etc.)
- Assessment of the status of needed resources (i.e., the availability and adequacy of resources (facilities, personal, transportation, financing) to address health risks identified)
- Plans to develop and maintain needed health resources (including who is responsible for developing and maintain this array of resources, who will pay for them, and assurance that they will exist for the life of the proposed energy project/facility)

IND1-1 The Coast Guard's LOR and a Waterway Suitability Report summarized the risk mitigation measures and port community's capabilities needed to make the waterway suitable for LNG marine traffic. These analyses were based on consideration of the Zones of Concern, as discussed in section 4.12.7.5. These Zones would be smaller for the accidental releases mentioned in the text cited by the comment. Accordingly, we believe that the Coast Guard had addressed and planned for such events.

IND1-2 See response to comments NA4-224 and IND1-1 regarding Downeast's development of an ERP. Recommended condition 43 (see section 5.2 of the EIS) requires that the ERP include a Cost-Sharing Plan to address the funding of project-specific emergency management costs assumed by state and local agencies. The WSR also recommends the need for bilateral arrangements under the existing CANUSLANT agreement between Canada and the United States. Section 4.8.5 of the EIS includes discussion of emergency services in the area and potential project impacts on these services.

IND1

2

The Downeast LNG DEIS either fails to address, or inadequately addresses, each of these elements. In part of the document where health issues are mentioned, the analysis is grossly inadequate. Repeatedly, the challenge described is one of coordination of resources. While coordination is indeed a challenging factor in this geopolitical area it is without question not the only problem. The availability and funding of health related resources is as important and remains unaddressed.

IND1-3

In addition, an Emergency Response Plan (ES-6) should not be developed *after* the granting of permission to construct. It should be done before and be subjected to the scrutiny of appropriate Federal entities such as Department of Homeland Security (DHS) and the Department of Health and Human Services (DHHS). While I understand that portions of such a plan must be remain confidential, the public deserves to: 1. Be assured that a plan exists and has been assessed by appropriate independent content experts; 2. Be made aware of criteria for the plans approval/adequacy; 3. Be aware of the elements of existing and proposed resources that are included. 4. Be aware of all costs involved and who will be paying over what period of time.

IND1-4

It does not appear to me that FERC has established a process for conducting or requiring such an assessment and it is therefore not in this DEIS. FERC and its existing Federal partners do not have the content expertise to make such specialized assessments. It should be noted that *nobody* on the *List of Preparers* of the DEIS has a health or emergency management background. On other areas requiring very specialized expertise, FERC appropriately relies on a large number of Federal Departments and Agencies. In the past, I was assured by the USCG that concerns regarding the public's health are included in their analysis. Having now reviewed several WSRs, I do not believe this is the case. In my view, the USCG, while having many admirable capacities and skills, has neither the capacity nor the mandate to do the type of analysis I have described. I would suggest that other Federal partners do. Specifically, both DHS and HHS have, or could easily expand, capacity to perform or commission such a comprehensive and objective analysis.

IND1-5

With respect to this DEIS, I request that FERC undertake a comprehensive assessment of issues related to the public's health by reaching out to other Federal entities with this capacity and inform the public of the results prior to issuing a final EIS.

Sincerely,

  
Brian W. Flynn, Ed.D.

IND1-3 See response to comment IND1-2.

IND1-4 The Energy Policy Act of 2005 requires that the ERP be developed prior to initial site preparation at the terminal site. As noted by our recommendation, the ERP would need to be filed and information pertaining to items such as off-site emergency response and procedures for public notification and evacuation would be subject to public disclosure. Notification of its filing would be provided to eLibrary subscribers through eSubscription, as with any submission to the FERC. The ERP would be developed in coordination with the Coast Guard under the Department of Homeland Security; state/provincial, county, and local emergency planning groups; fire departments; state and local law enforcement; and appropriate federal agencies. In situations where resource gaps are identified, the Cost Sharing Plan would identify the mechanisms for funding any capital costs associated with security/emergency management equipment and personnel base. In past Orders regarding LNG projects, the Commission has stated that the ERP and the Cost Sharing Plan would not be approved and a project would not be allowed to proceed in the absence of appropriate security/emergency response resources or funding.

IND1-5 We recognize your concern about health and safety issues related to LNG vessels and facilities. The following health, safety, and emergency management organizations are on the Downeast LNG Project mailing list: U.S. Department of State, Office of Environment/Health; U.S. Department of the Air Force, Environment, Safety and Occupational Health; U.S. Department of Transportation, Office of Pipeline Safety and Hazardous Materials Safety Administration; Maine Emergency Management Agency; Washington County Emergency Management Agency; and Maine Department of Public Safety; Office of State Fire Marshall. The ERP must be developed in consultation with federal/tribal, state/provincial, and local emergency response agencies. FERC and the Coast Guard, in coordination with other resource agencies, have the appropriate resources to evaluate Downeast's ERP and determine its adequacy. The U.S. Departments of Homeland Security and Health and Human Services are not currently on the mailing list; however, in response to your comment, they have been added.

IND2

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St, NE, Room 1A  
Washington, D.C. 20426

To Whom It May Concern:

I have reviewed FERC Draft Environmental Impact Statement, Docket Nos CP07-52-000, CP07-53-000 and CP07-53-001.

I have six concerns, as follows:

1. The possibility of grass or forest fires as ignition points that would increase the possibility of burn back to pool fires on terminal or pipeline accident sites. IND2-1
2. Possible radon hazards from site construction in facility buildings - I don't see and mention of granite/radon problems. IND2-2
3. Permanent loss of tax payer owned land. IND2-3
4. Noise, in air and underwater, disturbing wildlife and people and impacting egg, larval, embryo development. IND2-4
5. If the project were to fail and go off line, who would be responsible for removal and cleanup of facilities and removal of pipeline? IND2-5
6. Increased terrorist threats in an area that cannot possibly be patrolled 24/7. IND2-6

Sincerely, Mrs. Ronna M. Pasha

## IND2 Ronna M. Pasha

IND2-1 See response to Comment CO3-2.

In the unlikely coincidence of an LNG release in the vicinity of a forest or grass fire, the potential exists for the vapor cloud to ignite and contribute to the fire and/or burn back to the source. However, the risk of a release of LNG is very small due to the strict standards applied to LNG facilities. Furthermore, any release and/or fire would be managed by implementing the measures outlined in Downeast's ERP along with the cooperative effort of local emergency responders. See sections 4.12.1 and 4.12.4 of the EIS for a discussion of LNG flammability.

IND2-2 Downeast's LNG facilities would be constructed and operated in accordance with federal, state, and local regulations. Downeast most likely would address radon hazards in its occupational health and safety plan for the terminal.

IND2-3 As discussed in Section 4.7.2 of the EIS, Downeast would obtain an easement from the landowner in order to construct the sendout pipeline. The easement gives Downeast the right to construct, operate, and maintain the sendout pipeline, and establish a permanent right-of-way. In return, Downeast would compensate the landowner for use of the land. The easement agreement specifies allowable uses and restrictions on the permanent right-of-way. However, the individual landowner retains ownership rights.

Property taxes on a parcel of land are generally based on its actual use. Construction of the pipeline would not change the general use of the surface property, but it would preclude the construction of aboveground structures (and other activities involving excavation) along the permanent right-of-way. The landowner continues to pay taxes on his property, including the pipeline easement.

The 80-acre parcel of land on which the LNG terminal would be located is owned by Downeast. Downeast would be responsible for paying property taxes on the parcel.

IND2-4 Noise impacts are discussed in sections 4.3, 4.5, 4.6, and 4.11 of the EIS. The Commission evaluated the noise impacts of the project, as reduced by Downeast's proposed mitigation measures, on wildlife and humans. Where necessary, we recommended additional mitigation measures to minimize or avoid impacts. We concluded that any adverse environmental impacts would be avoided or minimized with incorporation of Downeast's mitigation measures and our recommendations.

IND2-5 Section 2.8 of the EIS discusses future plans and abandonment of the facilities. As stated in section 2.8, if abandonment were to occur, Downeast has committed to the Town of Robbinston to restore the property parcel to a non-industrial condition by removal of the terminal components and land restoration actions. This commitment would be insured by a reclamation bond or similar financial guarantee. In addition, abandonment of the facility would require FERC authorization and the associated analyses.

IND2-6 The facility security is described in section 4.12.6 of the EIS, and would include security staff that would be onsite. Also, please see response to comment CO3-2.

IND3

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This is in regards to docket # CP07-52-000, CP07-53-000 and CP07-53-001.

TO FERC:

I am in agreement on having the comment period extended for the following reasons:

- I earn the bulk of my years income within a seven to eight month period, from spring through fall, with a small slow down in business in August. At this time I am too busy with my work to review the draft environmental impact statement for Downeast LNG. I will not have the opportunity to review this 450 page document and give my comments within the time allowed.

- The little bit of time off I get, I have to spend cutting and splitting fire wood to heat my home for this coming winter, plant my garden, can and freeze the harvest. These things cannot be put off.

I hope you will extend the comment period so I can review the draft environmental impact statement and comment on it.

Sherly King  
31 Conic Stream Lane  
Baring, ME 04694

IND3-1

IND3-1 See response to Motion NA1-1.



IND4

IND4\_SKing\_06-11-09.txt

This is in regards to docket # CP07-52-000, CP07-53-000 and CP07-53-001.

To Ferc:

I have a concerns about the pipeline construction being very close to my farm animals, who also happen to be my pets.

The noise, dust and vibration of blasting ledge will surely STRESS them out. Downeast LNG has indicated in their filings that the ledge is more than five feet deep on my lot, this is untrue. I am sure they will need to do some blasting.

Since farm animals can get sick and even die when stressed-out too much, how does Downeast LNG plan on eliminating this stress factor. Letting my pets die and replacing them is not an option.

Sherly King  
31 Conic Stream Lane  
Baring, ME 04694

IND4-1

Page 1

IND4-1 Section 4.1.1 of the EIS discusses potential blasting activities. Where consolidated rock is encountered during construction, Downeast's preferred procedure is to fracture and excavate the bedrock using standard construction equipment. If the bedrock cannot be easily removed by conventional excavation methods, blasting would be the last option to achieve the required trench depth. Downeast would conduct all blasting in compliance with state and federal regulations governing the use of explosives. The blasting contractor would be required to conduct pre-blasting evaluations of the rock, with landowner permission, and to develop activity-specific blasting and monitoring plans. Among other things, blasting plans would include measures to keep fly rock within the construction right-of-way. The contractor would follow applicable procedures and be responsible for notifying officials, obtaining appropriate blasting permits or permission, and providing any necessary bond or insurance.

Section 4.11.2 of the EIS discusses construction noise during pipeline installation. Contractors would implement measures during construction to minimize noise impacts on adjacent landowners.

Many studies have been performed on the effects of noise on wildlife and domestic animals. Animals appear to be much more tolerant of noise than humans, and only sounds at very high levels that come on suddenly, such as a gun shot or sonic boom, elicit a brief, adverse response. Steady continuous noise at moderately high levels appears to have no effect. For example, hawks can frequently be seen hunting alongside freeways. Cattle and other farm animals often graze near busy highways. Farm animals in particular typically adapt well to machinery noise from tractors, trucks, and other farm equipment. Milk production in cows and egg production in chickens have been studied extensively and no correlation has been found with noise at the levels anticipated from construction of the gas sendout pipeline.

Noise associated with most pipeline construction equipment will be short-term and limited to daytime or daylight hours. In addition, equipment operations adjacent to residences would be restricted to only those specifically required for the pipeline installation. The FERC staff and our third party contractor, as well as staff from cooperating agencies, have independently reviewed the information provided by Downeast. We believe that the measures proposed by Downeast and recommended by the FERC staff are sufficient to mitigate construction noise.

0000617-0004 FERC PDF (Unofficial) 06/10/2009

IND5

June 10, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001

Dear Ms. Bose:

I am writing to you about the allegations presented in the Motion to FERC for enlargement of the comment period filed on behalf of Save Passamaquoddy Bay and other parties. My name is Stanley Morrell and I and almost my entire family have lived here in Robbinston all our lives. I have also been the primary lobsterman in Mill Cove for more than 31 years. Only four other fishermen take the time to lobster in Mill Cove. I tend my 80 traps just on the weekend. There is no need to do more than that.

We can not afford to be just "lobstermen". First of all there aren't enough lobsters here to keep us all alive even if that is what we wanted to do!! I have a full time job with the Town of Perry, and also several part-time jobs on the side I do – firewood cutting, lawn mowing, occasional handiwork, etc. I have to do these various jobs just to feed my family. I guess that makes me one of the people that Save Passamaquoddy Bay says is a "seasonal" worker and who they are so worried about. Well, let me say this – they don't need to worry about me having enough time to review the Downeast LNG project. All of the people in this area have been reviewing it for years now, and one thing I have noted is that Downeast LNG has never really changed their original project very much. They seem to know exactly what they are doing and have been telling us all along exactly what they want to do and what the impacts are going to be. I have even worked for them collecting lobster data, and they have always answered any question that I have had for them.

That's more than I can say for Save Passamaquoddy Bay. This is not the high season for fishing, and anyone who lives here can tell you that. Last week I caught 9 lobsters with over 50 traps along the Mill Cove and up and down the coast. The week before that I caught 7 lobsters, and the week before that, 4 lobsters. The lobsters don't even start running around here until late summer-fall. And when they do – I will still go out only once a week to tend my traps because there is no sense in doing anything more than that. Sure, the few lobstermen who go offshore to catch lobster spend more time than one day a week. But almost nobody does that up here anymore because of the low prices for lobster, and the cost of diesel. Can't afford to do it!

FILED  
SECRETARY OF THE  
COMMISSION  
JUN 10 10 P M '09  
FEDERAL ENERGY  
REGULATORY COMMISSION

IND5 Stanley Morrell (continued)

00090612-0024 FERC PDF (Unofficial) 06/10/2009

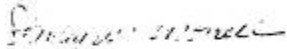
IND5

To my knowledge, almost every fisherman wants this project to go forward so they or other family members might get a job that is half way decent. Sure, they'll still go lobstering, but at least they can settle down a bit and have some decent pay and health care coverage.

I say let's get on with it and enough with the delays already. I have plenty of time to read anything I want to about Downeast LNG...and to even write my comments like I am doing now. I also want to say I am 100% in support of this project coming to Robbinston, and Washington County and the State of Maine as far as that goes!

IND5-1

Sincerely,



Stanley Morrell

769 U.S. Route 1  
Robbinston, ME 04872

IND5-1 See response to Motion NA1-1.

0000016-0121 FERC PDF (0000000000) 06/11/2009

ORIGINAL

June 12, 2009

208 Jun 12 10:58

IND6

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

Re: DOWNEAST LNG  
Docket No. CP07-62-000  
Docket No. CP07-63-000  
Docket No. CP07-63-001

Dear Ms. Bose:

I would like to take this opportunity to correct several of the assertions presented in the Save Passamaquoddy Bay Motion for an extension of time in the comment period associated with the Downeast LNG Draft Environmental Impact Statement.

I read the motion of Save Passamaquoddy Bay (SPB) and others to extend the comment period from the current period of May 15th to July 8th by ANOTHER 90 days. Their reasons for the request are, in my life-long history and experience here in the area as a resident, property holder and businessman, are pure fiction, ludicrous, and wholly inaccurate.

First, SPB Claims that fishing and tourism are "the predominant industries in the region". This is a complete falsehood. And if it were true – we would all be in more economic trouble than we already are. The predominant industries in this area are in fact "government" (Homeland Security at the US-CN Border, Immigration Services, and state and federal government personnel), the wood and paper industry (for example Corstar), health services (for example the Calais Regional Hospital, the Eastport Health Care Medical Center, the Downeast Community Hospital and the Lubec Regional Medical Center), the Educational System (I sit on the Calais School Department Board), Washington County Community College, logging and trucking companies, grocery and convenience stores, and Walmart. The area's most "predominant tourist attraction" WAS the Heritage Museum in Calais, which just recently went Bankrupt for lack of visitors and is now CLOSED. While tourists do visit this area – they come here mainly to pass through the border and to go onto Canada. Those who stop usually do so for a quick period of a day or so – that's it!

Second, what little tourism we do have here is NOT at its "Peak" during the period of May through June as claimed by SPB. That is pure garbage. The tourists that do make their way up this far in Maine come almost exclusively AFTER the close of school and during their summer vacations. Summer up here

IND6

doesn't really even start – temperature wise – until the end of June or into July. Instead, most of our tourist visitors come in July and August and then later in the fall when the leaves are out and the 'families' of children are gone. One of the reasons I know this is because I have been primarily a real estate agent for more than six years and also a property developer in the area for more than 10 years. In this role, my busiest time of year relative to actual real estate offerings and closings – to out of towners – is during the later part of the summer and early fall when these interested buyers typically schedule time to drive or fly up to look at particular properties. To say, as SPB claims, that the people involved with tourism and real estate are "wholly occupied with their Livelihoods" right now because it is Peak Season...is just untrue. And real estate people busy with 'rentals'? Please! What few rental properties there are in this region are (1) are booked much earlier than this time of year for reservations later this summer, or (2) almost wholly reliant upon construction workers, most of whom have been here already for more than a year working on the Maritimes pipeline, the hospital, or the new bridge. The real estate agents up here are NOT running around trying to arrange rentals.

Third, SPB says the comment period is too brief, especially considering that it occurs during 'Downeast Maine's highly-seasonal job market'. Oh SURE! This project has been in the works for almost 4 years or more now and there have been so many meetings that most of us that live here just want the process to hurry up and finish, already!!! It seems to us that SPB will try to delay anything associated with this project...because they don't have a technical leg to stand on in their opposition. The fact is that in this area the ENTIRE YEAR is full of seasonal jobs that many of us do all the time because we need the jobs to survive! There are tons of people who have multiple jobs around here and we have gone to all or most of the meetings and have provided input on the project in some form or fashion. The project does not seem to have changed one bit since Downeast LNG announced it YEARS AGO, except some tweaks in the pipeline routing. Why in the world would anyone – especially the people at SPB who seem to have a LOT of FREE time on their hands – need more time...unless of course they just want to slow down the process.

Just yesterday and today, the principle Spokesperson for Save Passamaquoddy Bay, Bob Godfrey, was writing emails to the Bangor Daily News in response to their preparing and publishing an article. Please see the attached Article from and printout of today's Comments section. Bob Godfrey does this for all the newspapers...including those in Canada. He also has his own webpage that he constantly updates. It seems to me that he has PLENTY of time to be doing a review of the Downeast LNG project.

In closing, the bottomline here is that the majority of people in this region support the Downeast LNG project and want to continue, NEED to continue, to see the review process move forward. On the flip side, a small small minority group of people under the umbrella of SPB just want the project to be delayed and to go

IND6-1

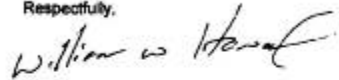
IND6-1 See response to Motion NA1-1.

00090616-0121 FERC PDF (Unofficial) 06/12/2009

IND6

away, and will do anything they can to achieve that goal, including apparently  
asserting falsehoods. | IND6-1  
cont'd

Respectfully,



William W. Howard



BY THE SAME AUTHOR: *RELIGIOUS LIFE*

1000

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1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

From Robert Godfrey

The Government of Canada has severely restricted it and will allow only 100,000 visas for the United States. The Government of Canada has severely restricted it and will allow only 100,000 visas for the United States.

**From Cathy Foster:**

**From Tom**

**2009-10 Budgetary Control System**

88 WILSON, ARA ET AL. *Journal of Polymer Science: Part A: Polymer Chemistry*

OF BILL THOMPSON  
OF THE ARMY STAFF

[illegible]

In an e-mail, Bob Galloway of the anti-LGBT group in Toronto, Ontario, wrote's claim that the World AIDS is not scientifically different from its LGBT virus applications. He wrote that the World AIDS epidemic information from numerous governments, including the United States is "misleading to a very great extent."

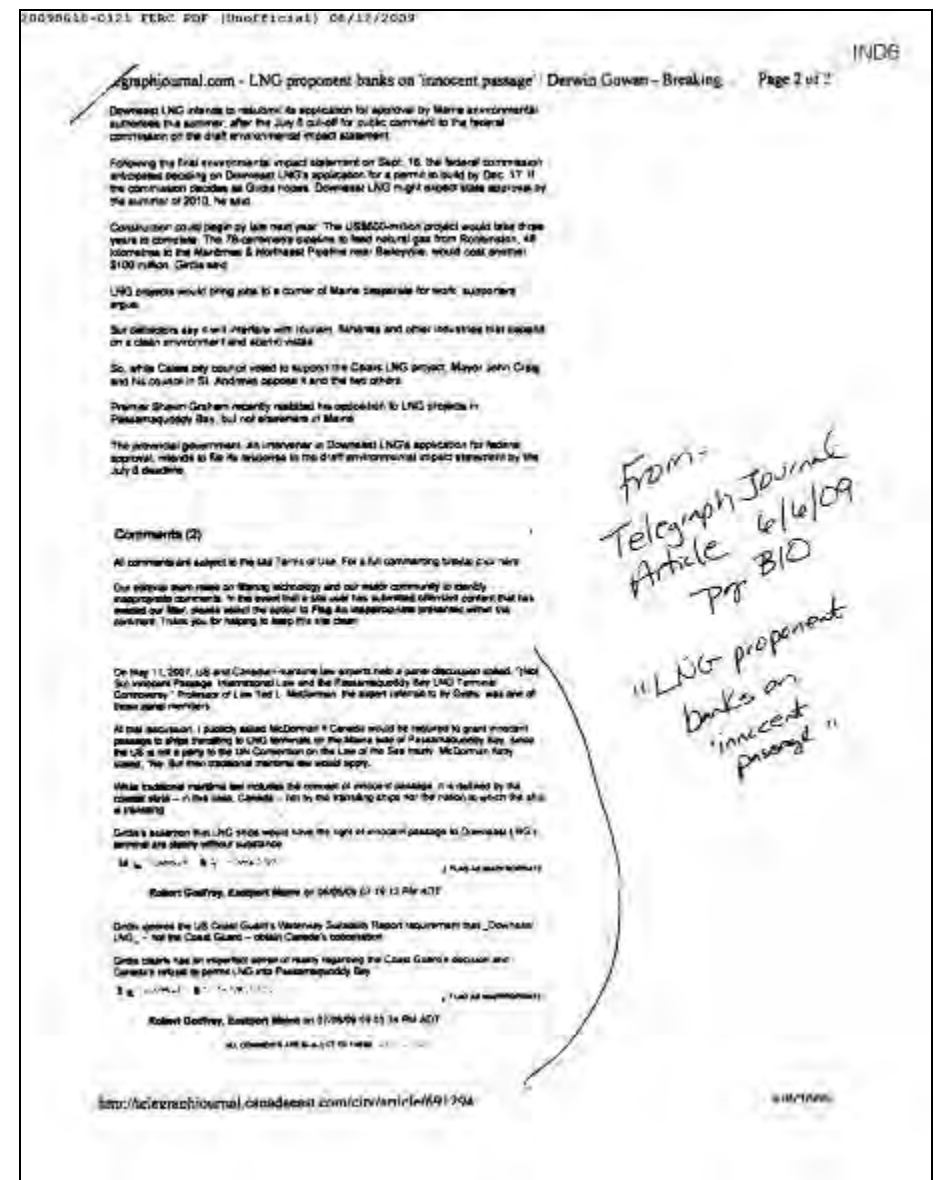
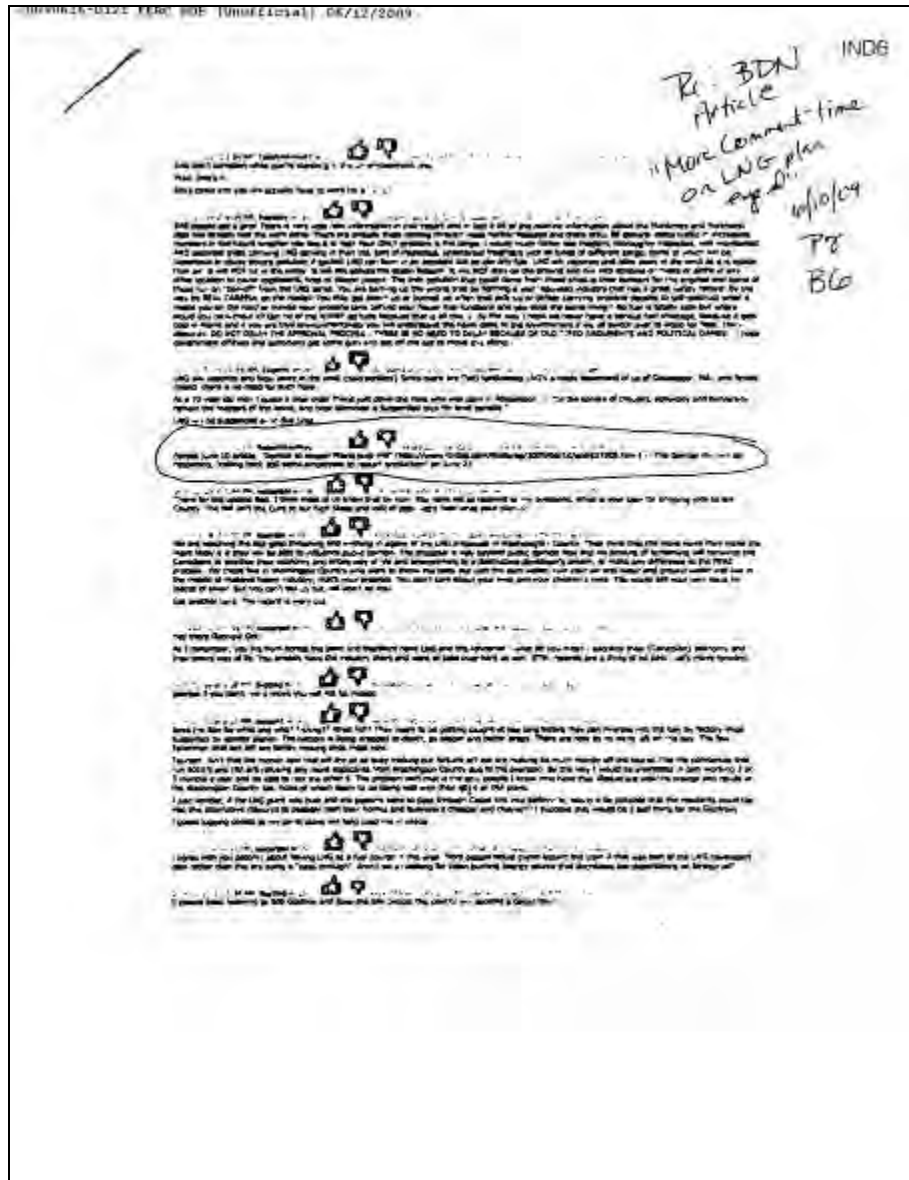
The fire was also charged about the danger to which the residents of eastern Washington County are exposed as a result of the fire.

Some of the fishing industry and local groups in Washington County are looking for other kinds of work to help boost the number of jobs in the region.

Wright said the only meaningful documentation FPO provided to FBIAC along with its objection is from Kansas Institute of Westwood Village Wind Associates, which in 2008 issued a study funded by FPO that predicted GPO increased development in Washington County. Clearly, Wright said, such an adverse impact on the region's economy.

"We're going to have a zoning framework," Wright said. "We're looking for FPO to not grant the extension."

1999




20090616-0121 EERC PDF (Unofficial) 06/12/2009



Save Passamaquoddy Bay from LNG

Page 1 of 3 IND6

**Save Passamaquoddy Bay**  
A 1-Nation Alliance

An Alliance to Protect the Bay from LNG Development





Passamaquoddy  
"Paddled by abenaki on a white canoe on a bay."  
(We Take Care of Our Land)

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Passamaquoddy Birch Bark Canoe



Gift Your Family with a Sea Canoe — & Help Passamaquoddy

**>>> Downeast LNG Draft Environmental Statement <<<**

**Go to our DEIS download page**

The White Bay Study  
Downeast LNG Draft Environmental Statement  
(Law of the Sea & Innocent Passage) National Gas Industry & Market Participants Report  
(Coastal LNG & Sevens vs LNG Industry Reality) (LNG in the Hazard Zones)

**Did You Know...**

• For every \$1 million invested in clean energy in the U.S., 17 new U.S. jobs are created.

Source: [Clean Energy Jobs](#) (2009)

<http://www.quoddyloop.com/savepassamaquoddybay/> 6/12/2009

20090616-0121 EERC PDF (Unofficial) 06/12/2009

Save Passamaquoddy Bay from LNG

Page 2 of 10 IND6

2008 Sep 9, Center for American Progress

Compare that with the number of jobs the \$500-million Downeast LNG project they will create — just 78 permanent direct jobs and 253 permanent indirect jobs, 331 permanent jobs (according to the DEIS website on 2009 May 19).

Clean energy would produce 8,500 jobs for that same investment — **8,165 jobs** than Downeast LNG!

**ANNOUNCEMENTS**

**Downeast LNG  
Draft Environmental Impact  
Statement released**

— Comment Deadline is **2009 July 6** —

Anyone — even non-intervenors — may submit comments.

**Download the DEIS**

**Premier Graham: NB firmly opposes  
LNG in Passamaquoddy Bay**

<http://www.quoddyloop.com/savepassamaquoddybay/> Premier Graham corrects Energy

<http://www.quoddyloop.com/savepassamaquoddybay/> 6/12/2009

00000616-0321 FERC PDF (Unofficial) 06/12/2009

Save Passamaquoddy Bay from LNG

Page 7 of 10 IND6

**Follow this bill's progress**  
(Last activity: 2008 Jul 3)

**Liquefied Natural Gas Terminal Authorization**

**Follow this bill's progress**  
(Last activity: 2008 Aug)

**US Senate S. 3441**

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**Natural Gas Industry & Market Participants Say...**

- **GAS DEMAND HAS GONE OFF A CLIFF!**  
by [ind6](#) on 6/12/2009

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Jun 11

FERC > FERC LNG Project Review Process > eLibrary Dockets > Formal Filing Comment Submissions > Downeast LNG — CP07-52 > 2009 > June

- Jun 11 — **Washington County Commissioners call SPB & NN "narcissistic"**  
Sherly King of Baring, ME, favors extending DEIS Comment Period

Jun 10

FERC > FERC LNG Project Review Process > eLibrary Dockets > Formal Filing Comment Submissions > Downeast LNG — CP07-52 > 2009 > June

- Jun 9 — Robert Peacock & Gerald Morrison oppose extending the public DeLNG DEIS Period.
- Jun 10 — Bill the Poet is concerned about short-circuiting the public DEIS

**News Stories & Editorial > Jun 10**

<http://www.quoddyloop.com/savepassamaquoddybay/>

6/12/2009

00000616-0321 FERC PDF (Unofficial) 06/12/2009

Save Passamaquoddy Bay from LNG

Page 8 of 10 IND6

- Dornier to reopen Maine pulp mill
- Governor pleased with Dornier reopening in Baileyville [News release]
- Sand versus gas [Opinion column]
- KLNG targets construction start next year
- Clatsop planners support controversial zone change on LNG pipeline route
- LNG deal puts a price on course (Jun 9)
- US natural gas price rebound in 2010 in doubt, Raymond James (Jun 8)
- Gazprom targets 5%-10% share of US gas market by 2020 (Jun 9)
- Much more LNG coming soon
- Market Watch: Crude closes above \$70/bbl for 7-month high

Jun 8

FERC > FERC LNG Project Review Process > eLibrary Dockets > Formal Filing Comment Submissions > Downeast LNG — CP07-52 > 2009 > June

- Jun 8 — Sunrise County Economic Council opposes extending the public DeLNG DEIS Period

**News Stories & Editorial > Jun 8**

- FERC approves funding plan for major international transmission line over 5)
- LNG plan flaming out [Editorial]
- Critics question Weaver's Cove pipeline plan (Jun 7)
- Lack of storage seen as disadvantage for New England (Jun 6)
- Groups: citizens call on Mid-Atlantic Governors to stop liquefied natural gas (Jun 5)
- Energy an issue as states form ocean panel (Jun 7)
- Thus far, new LNG proposal looks good (Jun 7)
- US government approves Cheniere LNG export plans
- Cheniere terminal to get LNG tomorrow, data shows (Jun 7)
- US preps for LNG exports (Jun 5)
- Cameron receives first LNG cargo
- Sempra LNG signs gas deal with RasGas (Jun 9)
- Sempra LNG signs agreement with RasGas to bring LNG from Qatar to new Coast terminal [News release]
- Alaska's natural gas dilemma - Everyone agrees Cook Inlet needs help. No on how or where to get it. (Jun 4)
- B.C. liquefied natural gas terminal proponents land more Asian customers
- Oregon LNG signs memorandum of understanding with the State of Oregon mitigation, plant retirement and emergency preparedness
- Supporters of LNG build a pipeline to Oregon lawmakers
- Two key decisions highlight special meeting for Port of Coos Bay

<http://www.quoddyloop.com/savepassamaquoddybay/>

6/12/2009

00000010-0121 FERC PDF (Official) 06/12/2009

Save Passamaquoddy Bay from LNG

Page 9 of 10 IND6

- Locked out on LNG (Jun 6)
- Jon Wellinghoff, Obama's energy futurist

Jun 7

June 8 is World Ocean Day  
*"People protect what they love."* — Jacques Cousteau

News Stories & Editorial > Jun 8

- LNG proponent banks on 'innocent passage' (DeLNG's Dean Girdis fantasiz  
*SPB Webmaster has added an additional comment regarding Girdis's*

Jun 6

FERC > FERC LNG Project Review Process > eLibrary Dockets > Formal Filing  
 Comment Submissions > Downeast LNG — CP07-52

- All Formal DeLNG CP07-52 Docket filings from Jan 2007 to present have b

News Stories & Editorial > Jun 6

- LNG proponent banks on 'innocent passage' (DeLNG's Dean Girdis fantasiz
- LNG proposal lacks planning, problem-solving

T92

**NO SAVE PASSAMAQUODDY BAY**

7-4

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6/12/2009

ORIGINAL

June 11, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

RE: Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001

Dear Ms. Bose:

I am writing in regards to the Motion to FERC for enlargement of the comment period filed on behalf of Save Passamaquoddy Bay and other parties.

Just a few words on save Passamaquoddy Bay's motion to extend the public comment period. The people have voted, and passed LNG in both Robbinston and Calais. I think the public has already spoken. The people have had years to think about the "potential impacts" as save Passamaquoddy Bay says, about these projects. I see they hired a woman named Shanna Ratner to do a whole bay study for the area, and to no surprise, comes up with a study to support what Save Passamaquoddy Bays wants. Of course she did, they paid her to! Shanna talks of fishing and tourism. I worked in Eastport for a time and I never remember anyone commercially fishing for halibut. Tourism, well that speaks for itself, i.e., the Heritage Center in Calais that couldn't attract enough tourists to stay open? Tourism doesn't cut it for the rest of us that do not own gift shops and the like. Back to fishing. I worked for Connors Aquaculture for 5 years and I remember people complaining about the cage sites, they pollute, they're ugly, they..... I could go on and on but the true fact is those cage sites created around 100 jobs for the community. Now I work for Domtar, or should I say worked for Domtar, and I for one am thankful that Down East LNG is trying to get their project through these hurdles and put people to work here again. We should all support Down East LNG's effort to start up this project. I guess if I could ask one question it would be: Will Save Passamaquoddy Bay personally extend my unemployment benefits for 90 days if they run out, because if these projects fail, I think I'm going to need it. Everyone wants green energy, well now is your chance. LNG burns like propane and doesn't pollute. I can't believe a group of people would try to hinder development in our economically depressed region, we the voters need these jobs now, not 90 days from now.

Thank You, Dan Spear, Calais



IND7

IND7-1

IND7-1 See response to Motion NA1-1.



ORIGINAL

IND8

June 12, 2009

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

RE: Downeast LNG Project  
Docket Nos. CP07-52-000; CP07-53-000; CP07-53-001  
Opposing Save Passamaquoddy Bay Motion to Extend Comment Period

Dear Ms. Bose:

I am writing to rebut the Motion to FERC for enlargement of the comment period filed on behalf of Save Passamaquoddy Bay and other parties.

As a resident of Robbinston and a business owner in Calais, I am surprised at the Motion for a number of reasons.

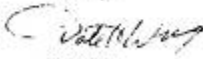
In the motion there is talk about the tourist season being in the "High Season" during the established Comment Period of May – July 6. We do have a tourist season here, but it doesn't usually start until July and August once school is out. My wife and I own the Downeast Motel in Calais. We are not going to open the Motel this season as it's a lot of work for very little reward. The tourist season that is discussed in the Motion is far different from the reality of Eastern Washington County tourism. They must be thinking of the tourist season in VERMONT.

I believe FERC, the US Coast Guard and other agencies have done a very thorough review and will continue to do so for the Downeast LNG project. The people who live here have also done a lot of review and going to all the meetings. We have also reviewed the state application (very similar to the FERC application) and were involved in that lengthy process. I would like to note that what I saw SPB do at the state proceedings is very similar to what they are trying to do now...delay, delay, delay.

Please do not grant an extension of the comment period. I believe the SPB motion is completely without merit.

IND8-1

Sincerely,



Dale Wing

P.O. Box 28  
Robbinston, ME

IND8-1 See response to Motion NA1-1.

00090625-0023 FERC PDF (Unofficial) 06/22/2009

Original

**ORIGINAL**

IND9

**DOWNEAST LNG PROJECT**

**DRAFT EIS PUBLIC MEETING COMMENTS**

June 16, 2009 • Robinson, ME

Send an **original and two copies** of your comments to Kimberly D. Bose, Secretary and label one copy for the attention of the Gas Branch 3, PJ-11.3. (addresses provided below). Reference Docket Nos. CP07-52-000, CP07-53-000, and CP07-53-001. Mail your comments so that they will be received in Washington, DC on or before **July 6, 2009**. You may also submit your comments directly to the FERC representatives at the meeting, and they will enter your comments into the record for you.

<b>For Official Filing:</b> Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street, N.E., Room 1A Washington, D.C. 20426	<b>Label One Copy for the Attention of:</b> Gas Branch 3, PJ-11.3 Federal Energy Regulatory Commission 888 First Street, N.E., Room 6H-05 Washington, D.C. 20426
---	--


COMMENTS: (Please print; use back or additional sheet if necessary.)

1. To ensure worker and workplace safety, the draft EIS and final EIS **MUST** specify the frequency and time frame of FERC staff regular inspections should the Downeast LNG Project come to fruition: ditto for the Federal Governments and State of Maine's OSHA. IND9-1

2. The draft EIS and final EIS, should contain a proviso, in clear and concise language, relative to the final de-commissioning of the Downeast LNG plant, should it be constructed, to eliminate potential future legal litigation for the Robinson, Maine community and the State of Maine government once the life expectancy of the plant is achieved. IND9-2

\_\_\_\_\_  
 Commentor's Name and Mailing Address (PLEASE PRINT)

Mr Peter Cannon  
 120 North St  
 Calais ME 04916-1043



IND9-1 If the Commission decides to authorize the project, it may adopt the environmental conditions recommended in the EIS as part of the Order. Those conditions are enforceable, and non-compliance could result in fines in accordance with provisions of the Energy Policy Act of 2005 (EPAct05). Contractors are required to adhere to all local, state, and federal regulations, including but not limited to Occupational Safety and Health Administration (OSHA) regulations. OSHA compliance officers would be responsible for inspections of the worksites to assess compliance with the project's health and safety plan and to determine if there are serious hazards that require correction. In addition to worker safety, recommended condition 9 in section 5.0 of the EIS requires that Downeast employ a team of environmental inspectors for the terminal and pipeline facilities to ensure that the project complies with the environmental conditions of the FERC Order as well as the environmental measures required by other federal, state, or local agencies. Downeast's Plan includes requirements for the qualifications, training, and authority of environmental inspectors. FERC staff and/or our contractors would also conduct regular inspections of the facilities while under construction. We believe this is sufficient to provide oversight of project activities.

IND9-2 See response to comment IND2-5.

Docket Nos. CP07-52-000  
CP07-53-000  
CP07-53-001

June 16, 2009

IND10

To Whom it May Concern;

Sorry I am unable to make tonight's meeting. I am sick. But wanted you to know that I support the LNG for Rabbinston. It would be great to see Businesses and jobs come to this area. I don't feel that LNG would affect the fishing industry. I worked in Portland at Baker Iron works. The lobster men would always put the traps under the ships and drydocks. Ships in the Bay could be a good thing for all.

IND10-1

IND10-1 Comment noted.

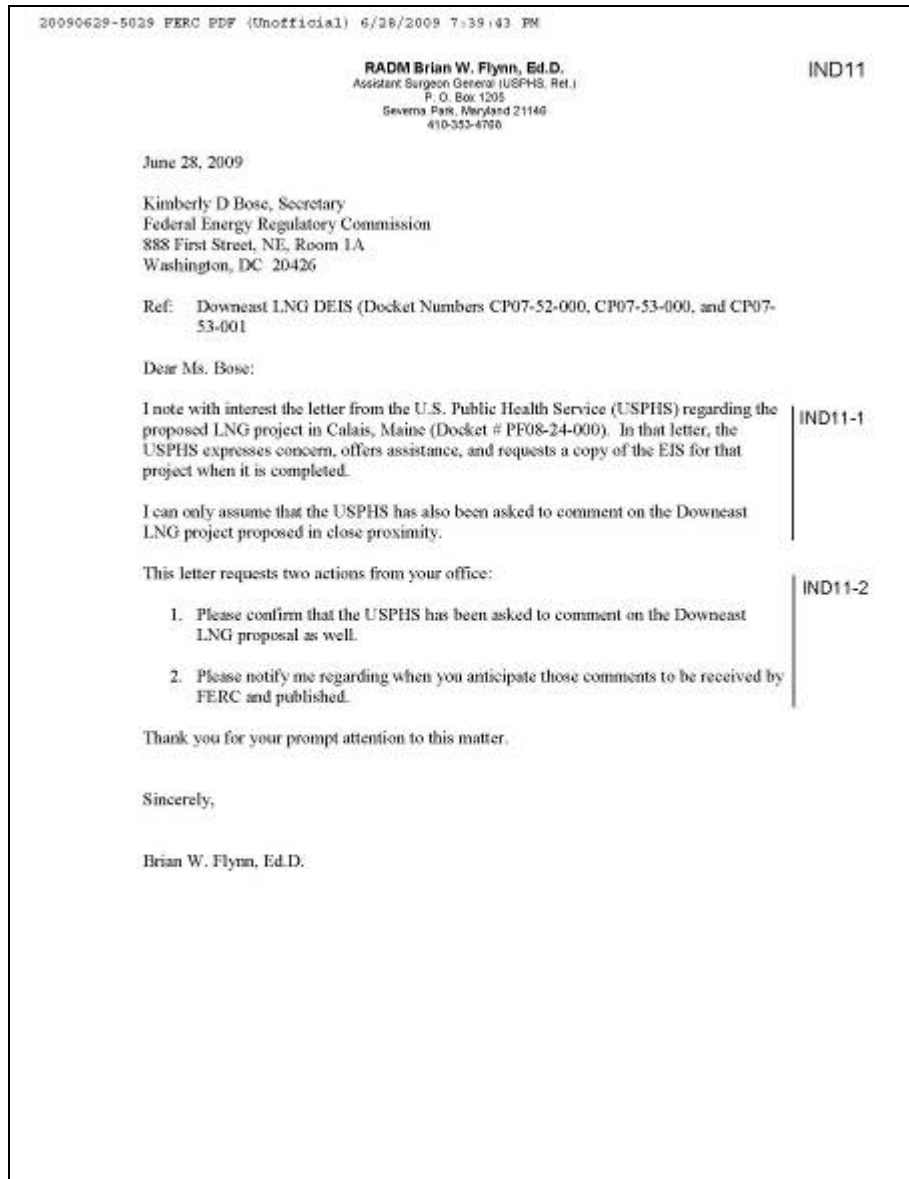
Sincerely,

*Scott Morrell*

Scott Morrell  
P.O. Box 71  
Rabbinston, Me.  
04671

Physical address  
760 Rt 1  
Rabbinston, Me.

RECEIVED  
JUN 19 6 50 PM '09  
U.S. DEPARTMENT OF COMMERCE



IND11-1 The U.S. Public Health Service (USPHS) is not on the mailing list for the Downeast draft EIS. The USPHS has been added to our mailing list and will receive a copy of the final EIS. The USPHS comments on the Calais LNG Project filed on July 6, 2009 stated that the EIS should consider the potential human health and safety aspects of the proposed project, specifically addressing potential health effects on workers as well as any human populations that reside or work near the pipeline and those populations that are dependent on natural resources potentially affected by this project. The USPHS also stated that a human health impact assessment prior to project approval is critical. Potential impacts on human health are addressed in section 4.11 of the Downeast EIS, specific to air quality and noise, and section 4.12, specific to pipeline safety. Based upon the emission modeling results and Downeast's adherence to federal safety standards, we conclude there would be no adverse human health impacts as a result of the construction and operation of the proposed project that require further analysis in this NEPA document.

IND11-2 To date the USPHS has not submitted comments on the Downeast draft EIS. As stated above, the USPHS has been added to our mailing list and will receive a copy of the final EIS. Members of the public and local, state, or federal agencies may comment on the draft EIS during the comment period. Any comments on the Downeast LNG Project received by FERC are assigned an identification number and posted to FERC's eLibrary as soon as possible. Comments are available for public viewing on the FERC's website at [www.ferc.gov](http://www.ferc.gov) via the eLibrary link. In addition, the Commission offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to the eSubscription link on the FERC Internet website (<http://www.ferc.gov/docs-filing/esubscription.asp>).

IND12

**Ronald S. Rosenfeld, M.D.**

P.O. Box 208  
281 Birch Park Road  
Perry, ME 04667

June 29, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington, DC 20426

RE: Downeast LNG, Inc. Docket No. CP07-52-000  
CP07-53-000  
CP07-53-001

Dear Ms. Bose:

In FERC's evaluation of the Downeast LNG, Inc application, referenced above, NEPA requires FERC to weigh the environmental damage created by the project against the public benefits to accrue from the supply of LNG provided by the project. Clearly, if the project were to supply no LNG, FERC should not approve this project. Current projections do not support Downeast LNG claims regarding the need for this project.

IND12-1

Downeast LNG writes, "Downeast believes that an additional supply of natural gas is necessary to satisfy the increasing demand for natural gas in the region and that the additional supply provided by the project would help meet the region's growing energy demands, enhance reliability, and provide a needed diversification of supply."<sup>1</sup>

"... demand for energy in New England is predicted to increase by 0.5 percent annually (EIA 2006), and without the proposed project, customers would have fewer and potentially more expensive options for obtaining natural gas supplies in the near future. Downeast has stated that natural gas consumers in New England face a future of high natural gas prices and increased risk of supply disruption unless additional sources of natural gas, such as the proposed project, become available."<sup>2</sup>

Review of current data on the EIA web site does not support these claims. The reference case has been updated to reflect provisions of the American Recovery and Reinvestment Act and paints a different picture.

IND12-1  
cont'd

Supplemental Table 1 from the Updated Annual Energy Outlook 2009 Reference Case for New England (April 2009)<sup>3</sup>, shows a projected Total Energy Consumption of 3.418 quadrillion Btu for 2009, and a consumption of 3.593 quadrillion Btu for 2030, an increase of just 0.226% per year, less than half of Downeast LNG's claim of 0.5% per year.

More importantly, energy consumption from Natural Gas is projected to be 0.626 quadrillion Btu/s in 2009, dropping to 0.619 quadrillion Btu/s in 2030, which is a decrease of 0.51% per year. In addition, New England natural gas consumption is projected to be lower than that of 2009 in every year between 2009-2030, except for 2028 and 2029.

<sup>1</sup> Downeast LNG Terminal and Pipeline Project Draft Environmental Impact Statement, 3.1

<sup>2</sup> Ibid, 3.1

<sup>3</sup> [http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab\\_1.xls](http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab_1.xls)

IND12-1 See response to Comment FA3-4.

IND12

● Page 2

June 29, 2009

Table 11<sup>4</sup> shows that there will be more than sufficient inflows of natural gas from the adjacent regions to supply New England with its requirements during the entire period 2009-2030, except for a slight shortfall in 2009 and 2010.

IND12-1  
cont'd

Doweast LNG also claims, without substantiation, that their LNG import facility may result in lower prices for natural gas to the end-user.

The Annual Energy Outlook 2009 shows that natural gas prices for the consumer in the New England are projected to rise. Comparing the 2009-2030 time frame, Table 11 shows an increase from \$8.50 to \$11.94 (2007 dollars per million Btu) or 1.6% per year.<sup>5</sup> However, for the country as a whole, the current price of \$6.76 is expected to rise at an even faster rate to \$10.42 or 2.0% per year.<sup>6</sup>

The AEO2009 shows the current Border Price (considering the entire US) for imported LNG (including regasification) of \$4.21 per thousand cubic feet is projected to rise to \$8.34 or an increase of 3.2% annually.<sup>7</sup> This is significantly higher than the average US wellhead prices of \$3.99 (2009) to \$8.01 (2030).<sup>8</sup>

It is difficult to project what LNG border prices will be at the Doweast LNG terminal. The AEO2009 does not break down prices by port of entry. However, data for 2006-2007 comparing actual U.S. LNG import costs and the LNG price at the Everett, MA facility shows that the latter had a premium of approximately 4.5%. Factoring this into the projected U.S. LNG border price in AEO2009, it is apparent that LNG at the Doweast facility will be more expensive than the Canada pipeline source.

Examining more recent data, the most recent available comparative data is for the 4<sup>th</sup> quarter of 2008<sup>9</sup>. During that time frame, Canada pipeline gas at Calais, ME had a weighted average price of \$7.39/MMBtu whereas LNG at the Distingas terminal in Everett, MA had a weighted average "landed" (not including regasification) cost of \$9.66/MMBtu.

It is also noteworthy that "LNG import prices were consistently at or above the level of prices of imports from Canada and Mexico throughout 2008, but were markedly higher through the latter half of the year."<sup>10</sup>

In conclusion, analysis of current data indicates that there is no need for an additional LNG import facility in this region. Furthermore, a claim that such a terminal may lower the cost of natural gas to the end-user does not seem credible. It seems more likely that this terminal would be a more expensive source of natural gas than currently available sources. FERC should carefully evaluate the Needs and Alternatives section of the DEIS as the option of rejection, or no action, would seem to be the most beneficial to the general public.

IND12-2

Sincerely,

Ronald S. Rosenfeld, M.D.

<sup>4</sup> [http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab\\_119.xls](http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab_119.xls)

<sup>5</sup> [http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab\\_11.xls](http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab_11.xls)

<sup>6</sup> [http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab\\_20.xls](http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab_20.xls)

<sup>7</sup> [http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab\\_116.xls](http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab_116.xls)

<sup>8</sup> [http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab\\_114.xls](http://www.eia.doe.gov/oiaf/aeo/supplement/stimulus/ama/excel/suptab_114.xls)

<sup>9</sup> <http://www.fe.doe.gov/programs/gasregulation/publications/4thQeng.pdf>

<sup>10</sup> *Ibid*, p. 18

IND12-2 See response to Comment FA3-4.



IND13

Federal Energy Regulatory Commission  
Public Hearing  
Robbinston, Maine

June 16, 2009

Good Evening,

My name is Captain Robert J. Peacock. I am a resident of Eastport and have lived in the area my entire life except when in the Navy or at sea in the U.S. Merchant Marine. I sailed for 20 years and was a Master for 14 years on seven VLCC and ULCC tankers. I sailed as Captain on the largest US built ship ever to fly the United States flag, the UST ATLANTIC when I was 30 years old. I served over 30 years in the U.S. Navy Reserve and was a Captain in the Reserves for 18 years. I have also been involved in many area fisheries extensively for 45 years.

Currently I am one of the State and Federal ship pilots for the area. I have been a pilot here for 33 years and have 947 successful passages as pilot in Head Harbor Passage and over 2000 additional documented passages training, fishing, or on my boats or the pilot boat. Many of the ships I have piloted had a draft deeper than the LNG ships proposed for the Downeast terminal and 97 trips were on ships longer than 350 feet. I have trained in very sophisticated ship handling simulators over my entire career, practicing passages under heavy weather and simulated ship system and assist tug failures. We have over 60 real time training and proof of concept simulations for the LNG terminals proposed for this area.

All this experience and training has taught me that Shiphandling in this area requires good preparation, detail on timing for the predictable tides, using caution and not boarding at the pilot station or sailing from the pier under certain conditions. I have read the FERC EIS and especially the Sections concerning Marine operations. I believe the US Coast Guard and FERC got the correct mix between safety parameters and operational parameters in the Draft EIS. This is not to say as pilot I would not hold a ship if I felt the ship operations or environmental conditions were not correct, even if the conditions were less than recommended restrictions.

Over the last four years I have worked extensively on both sides of the border with the United States and the Canadian Coast Guards and the area marine stakeholders, including the fishing community, marine eco tourism, law enforcement, whale watching, whale research, NOAA, the Maine DMR, Fundy Traffic, GoMOSS buoy system, and many others. I have tried to learn of the concerns and inform these stakeholders, and pass that knowledge along to the Downeast LNG team so that these concerns could be addressed in the resource reports to FERC, the Waterway Suitability Analysis for the Coast Guard, and Downeast outreach via meetings and newsletters.

IND13

Downeast LNG has been very responsive and I must say patient in their work on this project. The team has lived here and truly cares about the people and the area environment. Downeast has already provided local jobs and as Washington County's economic environment slowly dies, Downeast's LNG terminal will provide a basis for many more desperately needed jobs.

We all just experienced the effect of Domtar's recent shutdown and thank God they are reopening. But the lesson for all of us is the deep effect that the closing had on the secondary jobs in the area. Downeast LNG's project will clearly bring additional jobs outside of the terminal.

Canaport in Saint John, just 48 miles from here, is receiving their first LNG ship today. Irving started the planning and permit process at the same time as Downeast LNG. Canada can produce an operational terminal even before we can get through the permitting process here in the USA. We are losing these opportunities in the USA to our foreign competition, and any additional delay will cost more jobs in our US economy.

IND13-1

We have proven over 33 years that we can handle ships safely and efficiently, always with the environment and safety upmost in our consideration. The Draft EIS is a great roadmap to continue the safe development of the Downeast LNG terminal.

Most respectfully,

Captain Robert J. Peacock  
Quoddy Pilots

IND13-1 Please see response to Comment PM1-4.

IND13



IND13



IND13



IND13





Docket Nos. CP07-52-000  
CP07-53-000  
CP07-53-001

IND14

Dear FERC,

My Name is Stanley Morrell and I have lived in Robbinston, ME all of my life. I'm not one to get up and face the public and voice my views, but this project is really important to the future of this area and even to the way we live our lives. I want to say that I have fished for 31 years now in Passamaquoddy Bay and all I have seen over the past years is a decline in crab populations, fish populations, lobster populations and all of the above and I think that with this project coming there will be little if any impact on the species in Passamaquoddy Bay. In fact, the pier will be good for the habitat of the species and I don't see how any LNG ship docking on the top of the water in more than 45 feet is going to do any harm to the lobsters on the bottom. I have been driving my boat up and down the river for all these years and so far, I ain't hit a lobster or run over a crab.

I also feel that these tractor tugboats that some people are worried about are not going to be any different than the southeast blows that come into Mill Cove and stir up the silt on the bottom because I've seen mud streaks in the whole river due to these storms and it takes several days for the mud to settle down.

I can also schedule my lobster and crab trap tending around the schedule of the LNG ships coming in and going out. I don't see why that should be an issue to anyone. I can do my traps at any tide level.

Another thing I want to mention is the pipeline. As far as I am concerned it's like the lobsters on the bottom, the pipeline will be buried and be underground and once the pipeline is underground – what effect is that going to have on anything. Plants will grow back over the construction area and the materials are going to be built out of those that last forever so I also believe that this will not be an issue once it is completed. It's like building a road, once it's built there is little maintenance that is required and the impact is really associated with the first time it is built.

I have young children of my own, my wife has young children of her own, and we would like them to have a half decent opportunity to have a job that keeps them in this area and where they don't have to move out of the area or out of the state to get one.

I know almost every fishermen along the river. Some of them do not like the project but I think a lot of them are having second thoughts about that. I think this is mostly because the decline in the fisheries over the last 2-3 years has been tremendous. It is so very hard to make ends meet out there doing the lobster fishing. These fishermen are all capable of doing a great job on the tugboats or other jobs at the project...and I am sure Downeast LNG knows that too and would be more than willing to help see that these people are considered first for the jobs.

I think this is a good project for the area and I thank you for taking my comments into consideration.

Stanley W. Morrell

*Stanley W. Morrell*

IND14-1 Comment noted.

Docket Nos. CP07-52-000  
CP07-53-000  
CP07-53-001

FILED  
June 16, 2008  
09 JUN 19 AM 8:50

IND15

**To Whom it May Concern:**  
COMMISSION

Thank you for this opportunity to address FERC and our fellow towns people. I would also like to thank the good people of FERC for attending this meeting.

This County that we live in has had many hardships to endure from the closing of the Mill to loss of programs at our local community college. I would like to take the time to express my opinion about the LNG that is being proposed in Robbinston.

I know that the environment is very delicate and a concern for everyone that lives here in Robbinston. I agree that there has to be rules and regulation followed and enforced in order for the human race to survive on this planet. With this said I think that there are plenty of these rules and regulations in place, such as the Maine D.E.P, that LNG will have to follow and abide by in order to have a successful business.

As a member of the human race, we have to eat, drink, work, and survive on this planet. Part of doing that is to have a job, and they are very scarce for this part of the State. By letting LNG move forward you are providing many of the unemployed in this county with jobs, plus knowing that the Maine D.E.P will make sure that Robbinston LNG follows their rules and regulations to the specific written word, the environment is being protected for the future.

Thank you for your time.

*James Morrell*

ORIGINAL

IND15-1

IND15-1 Comment noted.



IND16

Direct Nav (P37)-52-000  
0307-53-000  
0307-53-001

FERC PUBLIC MEETING

Good evening, members of the Commission and USCG.

Thank you for providing us this opportunity to comment on the Downeast LNG Project.

My name is Gerald Morrison, and I am one of the U.S. Pilots Marine in this area. Earlier, Captain Robert Peacock spoke to you, and I would like to state my agreement with his comments. What I would like to add tonight regards the following:

**1. In addition to my working as a Pilot in this area for more than 23 years, I have also run a business that involves support of the marine industry.....namely Morrison Manufacturing Inc.**

At times, my business has employed as many as 5 workers and we have served various industries including local Pulp Mill, Aquaculture, Port of Eastport, and Local Fisherman. The shipping industry here is rapidly dying and that is a terribly sad event since it has been our history all along in this waterway. Those who would like to pretend that large ships have never been a cultural or historical part of this area are just plain not telling the truth.

Now, our economy is bust here in this area and we need to have new industry for the working class. Not all of us rely on the seasonal tourist trade.

**2. I have been a resident and member of this community my entire life. The only time I did not live here was when I was at school or at sea. My wife has lived here for 26 years. My parents, their parents, and their parents have lived here for over 100 years. In fact, my father and I have Herring Weirs along this coast and my family has been building them since 1887 so in addition to my manufacturing job, I am also a fishermen.**

What I want to say is that I support this project as both a Community Member and as a Fishermen. I do not believe that this project will have any adverse effect on my fishing for herring, with the exception of within Mill Cove itself where we have a weir. But I am confident that Downeast LNG will compensate my family for any loss that we may experience at that particular weir. As to our other weirs right along the shore where the LNG carriers will transit – we do not expect any impact at all, matter of fact maybe this will help drive the herring closer to shore so we could catch them.

And I would like to add – I have seen some stories lately where the leadership of the opposition was actually quoted as saying that the “supporters of the project” did not live in the USCG described “Zones of Concern”. That is absolutely the biggest joke I have heard in a long time. As a matter of fact, living in Perry as I do and as my family does – we live right in the areas described by the USCG. And it doesn't have us running in fear.

IND16-1  
ORIGINAL

IND16-1 Comment noted.

IND16

We didn't run when Canada built its nuclear power plant right up the road. Nor will we run when they expand it! We don't run with fear every time a propane truck drives by our neighborhood...which frankly presents a greater danger in my mind than does LNG. And not only does Propane come into Portsmouth, New Hampshire via ships, for this area it mostly comes by overland trucks and railway.

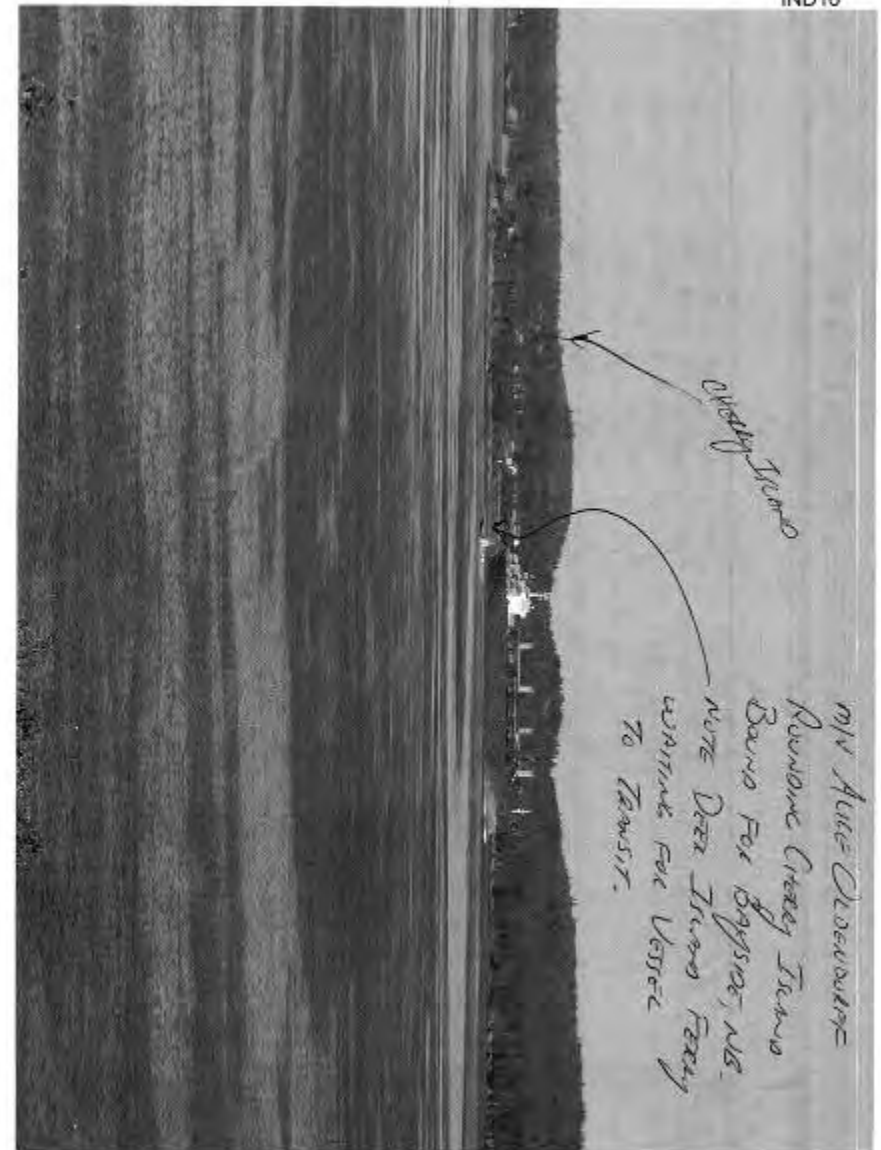
Lastly....I would like to submit to you some news articles and photographs that illustrate, I think quite well, that ships of all sizes are known to use this waterway...and we look forward to the day, sooner than later, that an LNG ship comes to our neighborhood, bringing clean energy and important economic stability to us.

Respectfully Submitted,



Capt. Gerald S. Morrison  
Eastport Pilots USA / Morrison Mfg. Inc.  
Perry Maine

IND16





IND16

# *Explorer of the Seas Docks in Portland*



The Casco Bay Lines ferry MacIntyre II passes in front of the 1020-foot Explorer of the Seas cruise ship as it backs into the Maine State Pier on Thursday in Portland. The Explorer of the Seas is the third-largest cruise ship in the world, holding more than 3,000 passengers and a crew of nearly 1,200.

2504167  
pg 63

IND16

# *Queen's Last Visit*



Thurco's stand on the Shore Path in Bar Harbor on Friday as the Cunard passenger cruise liner Queen Elizabeth 2 sits at anchor in Frenchman Bay. The 1278 passenger vessel, which is due to be converted into a floating hotel in the Persian Gulf city of Dubai, was making its last visit to Bar Harbor. Originally launched in 1962, the QE2 has been on 25 world cruises, crossed the Atlantic Ocean more than 800 times, and has carried more than 2.5 million passengers, according to the Cunard company.

SPENCER GILLYARD PHOTO BY AP/WIDEWORLD

2504167  
pg 63

IND16

8 February, 2008

THE QUODDY TIDES



HEADING OUT past Cherry Island into Head Harbour Passage on February 1 is the Bolder after it picked up aggregate at the port of Bayside for delivery to New York. (Edward French photo)

IND16

## Ships coming in: Rockland to welcome passengers of two 900-footers in 2009

BY GEORGE CHAPPELL  
OF THE NEWS STAFF

ROCKLAND — Two cruise ships, each more than 900 feet long, will make their first visits to Rockland in 2009.

Jewel of the Seas and Grandeur of the Seas will be the largest cruise ships to call at the port.

Both ships will visit Rockland on Sundays. Grandeur will arrive on Sunday, June 22, 2009, at the Rockland anchorage and discharge passengers at 5 a.m. The ship is scheduled to depart for Saint John, New Brunswick, late that afternoon.

Jewel will arrive Sunday morn-

ing Oct. 4, 2009, and will depart for Bar Harbor that evening.

Grandeur's capacity is 1,500 passengers and 350 crew members, and Jewel can hold 2,100 passengers and 400 crew members.

Both are Norwegian-flagged ocean liners registered in the Bahamas and owned by Royal Caribbean International.

"Grandeur will be the only ship to offer Bermuda and Caribbean getaways for mid-Atlantic vacationers from Norfolk's new cruise port, Half Moon Center," said Alice Nor-sworthy, senior vice president-marketing for Royal Caribbean.

From Boston, Jewel of the

Seas will take guests on five- and seven-night round trips, and Grandeur of the Seas will offer eight- and nine-night round trips from Baltimore. Jewel and Grandeur will call at the Canadian ports of Saint John, New Brunswick, and Halifax, Nova Scotia, as well as the Maine ports of Portland, Bar Harbor and Rockland.

Shari Closter of the Penobscot Bay Regional Chamber of Commerce in Rockland said a planning committee hasn't convened yet to discuss details of a welcome to the 2,000 passengers from each ship. She said a committee expects to meet in June after the June 19 Cruise Ship

Symposium in Portland.

"We will convene a meeting with all the interested parties," she said. "We will work with the Camden-Rockport-Lincolnville Chamber of Commerce and plan excursion trips on buses and trolleys in the area."

"We plan to invite VIPs from the cruise industry to the symposium to visit Rockland for a few days."

Plans include turning Rockland's Main Street into a pedestrian mall for passengers and crew members. City Manager Tom Hall said the tourists would be able to travel around the area without adding to the traffic.

See Rockland, Page B1.

## Ship Shape



People walk along the Rockland breakwater as the U.S. Navy ship USS Nassau anchors nearby as an attraction for the 60th annual Maine Lobster Festival in Rockland.

IND16

22 June, 2007

pg 3

THE QUODDY TIDES



A DRAGGER IN THE BAY passes by the Eastport breakwater as the Ambassador turns to head up the St. Croix River to Bayside on Friday, June 15. (Don Dunbar photo)

pg 3

IND16

11 July, 2008

THE QUODDY TIDES



THE U.S.S. HAWES is viewed from the air during its visit to Eastport over the Fourth of July celebration. (Don Dunbar photo)

Page 2

Q.Tides 11/25/08



THE CAPTAIN'S LADY, an archer dragger, heads for Lunenburg at the end of the day in Cobscook Bay, passing the Transmaple docked in Eastport. (Chessie Johnson photo)



IND16

P03

8 August, 2008

# THE QUODDY TIDES



A MINKE WHALE SURFACES as the freighter Barkold turns off Eastport to head to Bayside on August 1. (Don Dunbar photo)

IND16

IND16  
Capt. Gerald S. Morrison

# Cruising Through Bar Harbor

Two tourists with Thursday at the tide along the Bar that is the Bar Harbor. The harbor is a tender (air right) brings passengers across from the cruise ship Caribbean Princess. The ship, which can carry approximately 3,100 passengers, is visiting its first visit to Bar Harbor. According to local harbor master Charles Phippen, Bar Harbor is about a third of the way through its expected schedule of 103 cruise ship visits this year. Phippen said it's gone fine. "It's gone fine," Phippen said of the local cruise ship season.



BARBOR DIA # 17005 PHOTO BY TALL THOUGHT

IND16

26 September, 2008

THE QUODDY TIDES



PASSENGERS from the National Geographic Explorer, a Lindblad Expeditions cruise ship that was launched this summer, are ferried to the Roosevelt Campobello International Park for a shore visit on September 25. The polar expedition vessel, which holds 148 guests, also stopped at Grand Manan. The 12-day cruise began in Newfoundland and ended in New York City. (Chessie Johnson photo)

IND16

QUODDY TIDES

Page 15

Q.Tides 4/2/09



THE STAR JAPAN docked at the Port of Eastport on December 13 and 14 to load wood pulp. (Chessie Johnson photo)

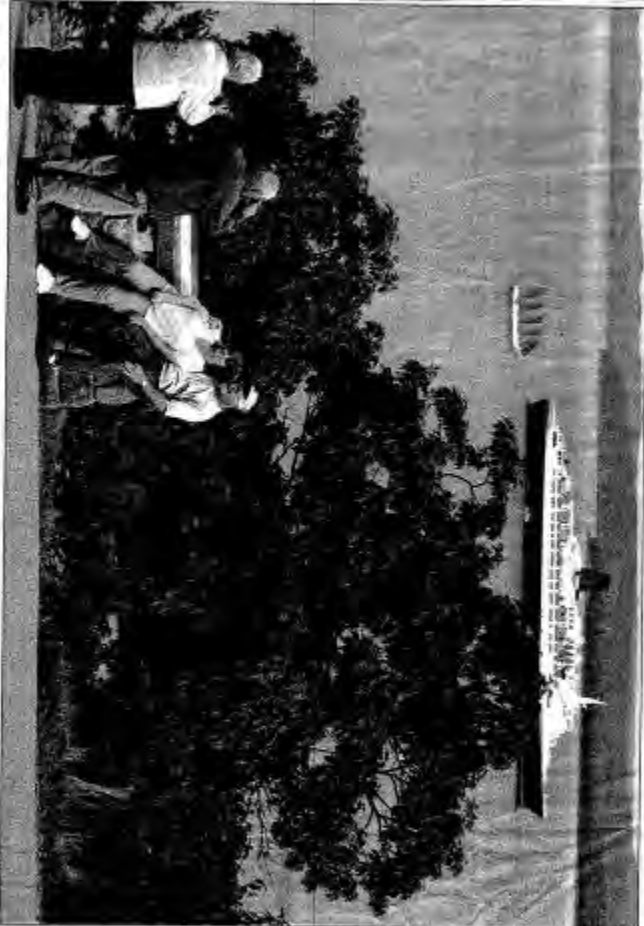
Q.Tides  
12/14/08  
78  
18



CALLING AT EASTPORT recently was the Star Harmonia, a 50,000-ton vessel owned by Grieg Shipping Group of Norway. (Chessie Johnson photo)

IND16

### Queen Elizabeth II Stops in Bar Harbor



—Jean and Ray Cripps (from left) take pictures of Mary Ray and Bob Crandall, all of Merrimack, New Brunswick, after stopping Tuesday in the Bay of Fundy. The ship is the 151-foot-long, four-mast schooner Margaret Todd and the 263-foot-long Queen Elizabeth II. The ship is the first of a series of visits to the coast of Maine, United Arab Emirates, beginning in 2009.

SAUNDERS DAILY NEWS PHOTO BY JEFFREY BROWN

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One tender waits while another takes on passengers to ferry to shore while the cruise ship Caribbean Princess sits anchored in Frenchman Bay near downtown Bar Harbor last year. A 1950-passenger cruise ship has decided not to stop in Rockland because of new regulations that seek to protect endangered North Atlantic right whales.

## Cruise ship visit to Rockland cut

### City officials: Law protecting right whales reason for cancellation

BY ABIGAIL CURTIS  
OF THE NEWS STAFF

**D**ue to new federal regulations intended to protect endangered North Atlantic right whales by making large ships slow down, the 1950-passenger Grandeur of the Seas evidently has scratched Rockland from its June port-of-call list.

"It is disappointing," said City Manager Rosemary Kulow on Friday.

Another 2,100-passenger ship from the same Royal Caribbean line is still intending to stop in Rockland in October, said the director of the Penobscot Bay Regional Chamber of Commerce.

"We're just working actively towards rolling out the red carpet for the October

visit," said Shari Closter, the Chamber's interim director.

Nevertheless, the loss of a cruise ship means the loss of revenue in local shops and restaurants. While Rockland has hosted many smaller cruise ships,

Grandeur of the Seas was the first-ever scheduled visit by a largest vessel. Ship passengers likely would have spent thousands of dollars in the region, according to economic models.

A 2002 University of Maine study found that cruise ship passengers spend an average of \$105.62 each at their Bar Harbor stop. If the numbers held true in Rockland, that would mean more than \$200,000 pumped into the local economy during the Grandeur of the Seas' stop.

Rockland officials said they were not-

fied late last week of the change to the Royal Caribbean cruise ship's schedule by company officials, although as of Friday evening, Rockland was still listed on Royal Caribbean's Web site as a scheduled stop for June 21.

The company did not return calls Friday to verify the scheduling change.

Rockland would have been the first stop on a cruise that was planned to embark from Baltimore and travel around Cape Cod by the Great South Channel. According to charts provided by the National Oceanic and Atmospheric Administration, the area, which extends more than 100 miles east of Boston and Cape Cod, will have mandatory speed restrictions imposed from April

See Cruise Page C5

IND16

Update Your  
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Chapman for all rights

## Cruise

Continued from Page C1

1. through July 31. Ships will have to travel at just 10 knots in areas where the whales feed and reproduce, as well as along migratory routes in between, according to NOAA.

The goal of the regulation is to reduce the risk of ship collisions with the whales, according to a press release from the agency.

The ship strike rule, based on science, is a major addition to NOAA's arsenal of protections for this endangered species," said Navy Vice Adm. Conrad G. Lautenschlager Jr., NOAA administrator, in the press release.

There are only 100 to 100 North Atlantic right whales in existence. They move slowly and so are "highly vulnerable" to ship collisions, especially since their migration route crosses major East Coast ship-

ping lanes, according to NOAA.

Greg Gordon of Intercoastal, a company that arranges shore excursions for cruise ships, said that Rockland has been working for years to get the larger cruise ships to put their itinerary on the schedule.

"Unfortunately, they had to cancel due to the right whale issue," he said. "People are definitely disappointed."

Crozier and Frank Legattis, the chairman of the Chamber of

Commerce's cruise committee, are focusing on the October visit by the Jewel of the Seas rather than fixating on the one that got away.

Rockland has been one of the most active ports in the state for 150 years," Legattis said. "I don't think a missed port of call is going to make or break the season. And from a reality perspective, it gives us four more months to plan."

AP Wirephoto/Associated Press

IND16



The 1,020-foot-long cruise ship Explorer of the Seas (left) is docked at the port of Frenchman Bay, N.J., after a day in the harbor.

**The mother ship: Massive liner drops anchor in Frenchman Bay**

BDN  
9/20/87  
Pg B1



IND16

## Local & Regional

# Navy destroyer to visit Eastport on the Fourth

Bangor Daily News, Monday, June 18, 2007, A9

BY DAVID QUINN

The destroyer will arrive in Eastport on Thursday.

BANGOR — The USS Zumwalt, a 100th anniversary ship, will arrive in Eastport on Thursday.

The ship's arrival, and the ship's visit, is part of the ship's 100th anniversary celebration.

The ship's visit is part of the ship's 100th anniversary celebration.

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The ship's visit is part of the ship's 100th anniversary celebration.

The ship's visit is part of the ship's 100th anniversary celebration.

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The destroyer Zumwalt, 800 feet long, is docked at the pier in Eastport on Thursday. The ship is the largest ship ever docked at the pier. The ship is the largest ship ever docked at the pier. The ship is the largest ship ever docked at the pier.



**seeworthy**  
Hard to miss: **The Baldock**, 800 feet long, is the biggest ship ever docked at this Searsport pier

BY WALTER DUNN

(OF THE NEWS STAFF)

The largest ship to dock at the Searsport pier is the USS Zumwalt, 800 feet long, is the biggest ship ever docked at this Searsport pier. The ship is the largest ship ever docked at the pier.

Depth of the dock is low, but it is deep enough to handle the ship. The ship is the largest ship ever docked at the pier. The ship is the largest ship ever docked at the pier.





IND16

## Event List Report

Report generated at 2009-05-28 10:45 (UTC)

Selected vessels: CHERRY

Selected event types: Departures, Arrivals, Exiting canadian waters, Entering canadian waters, Reports, Druga

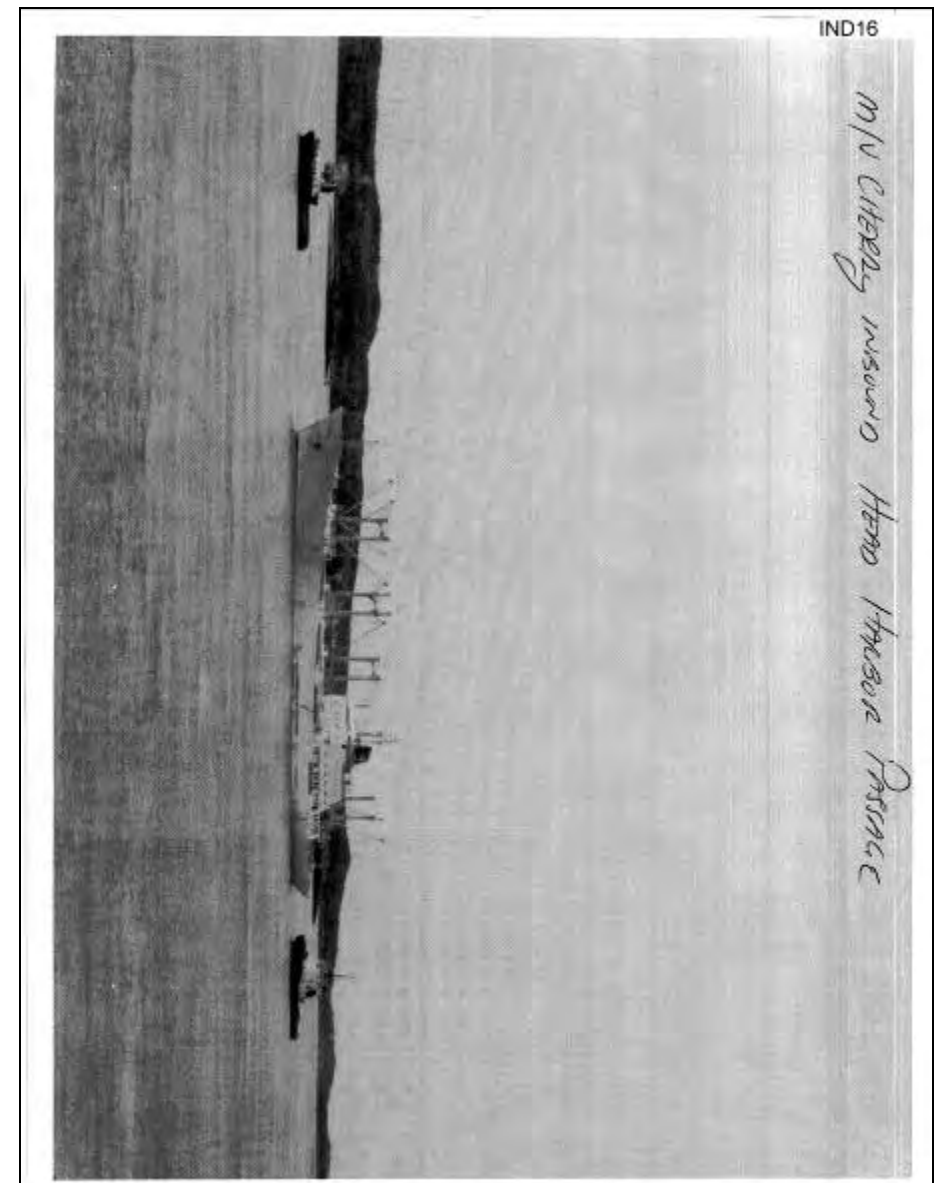
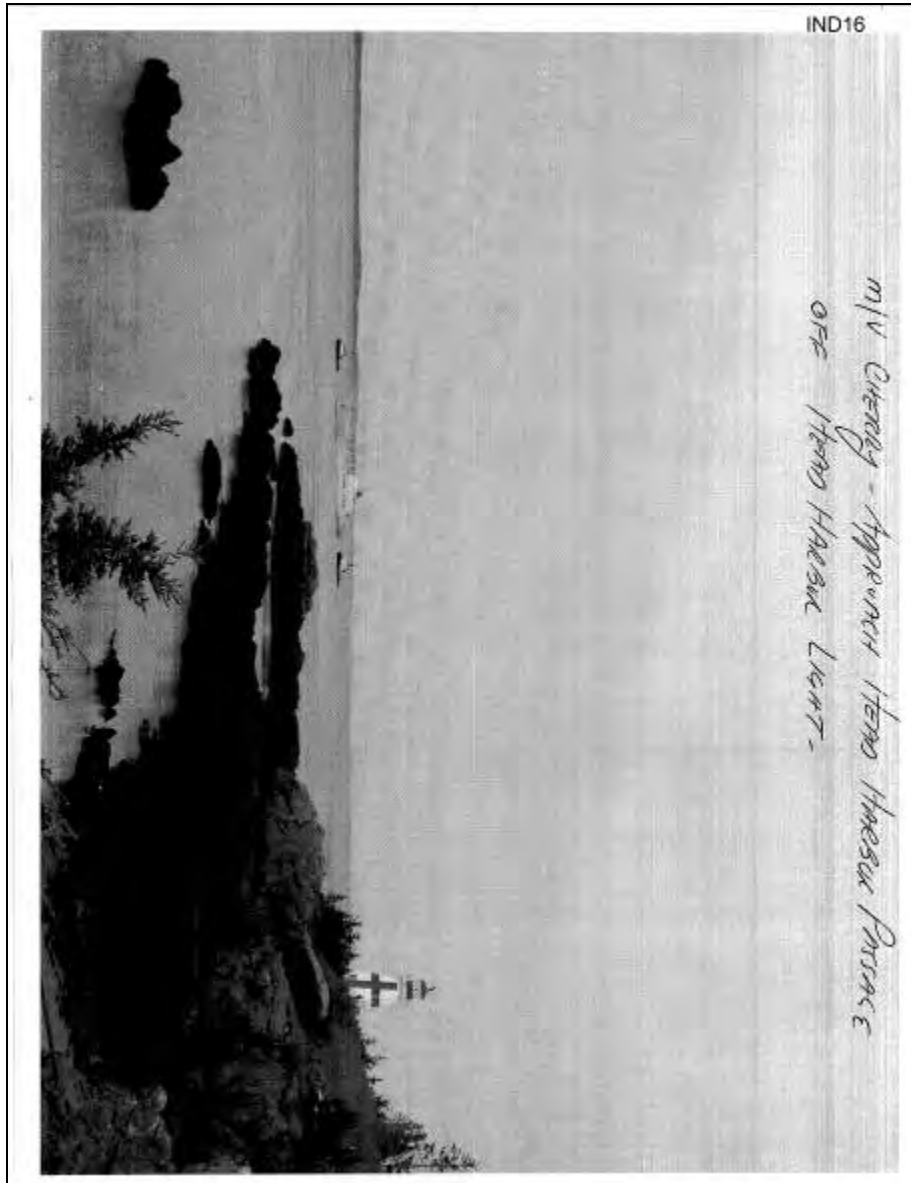
Events that occurred between 2009-05-01 00:00 (UTC) and 2009-05-30 00:00 (UTC).

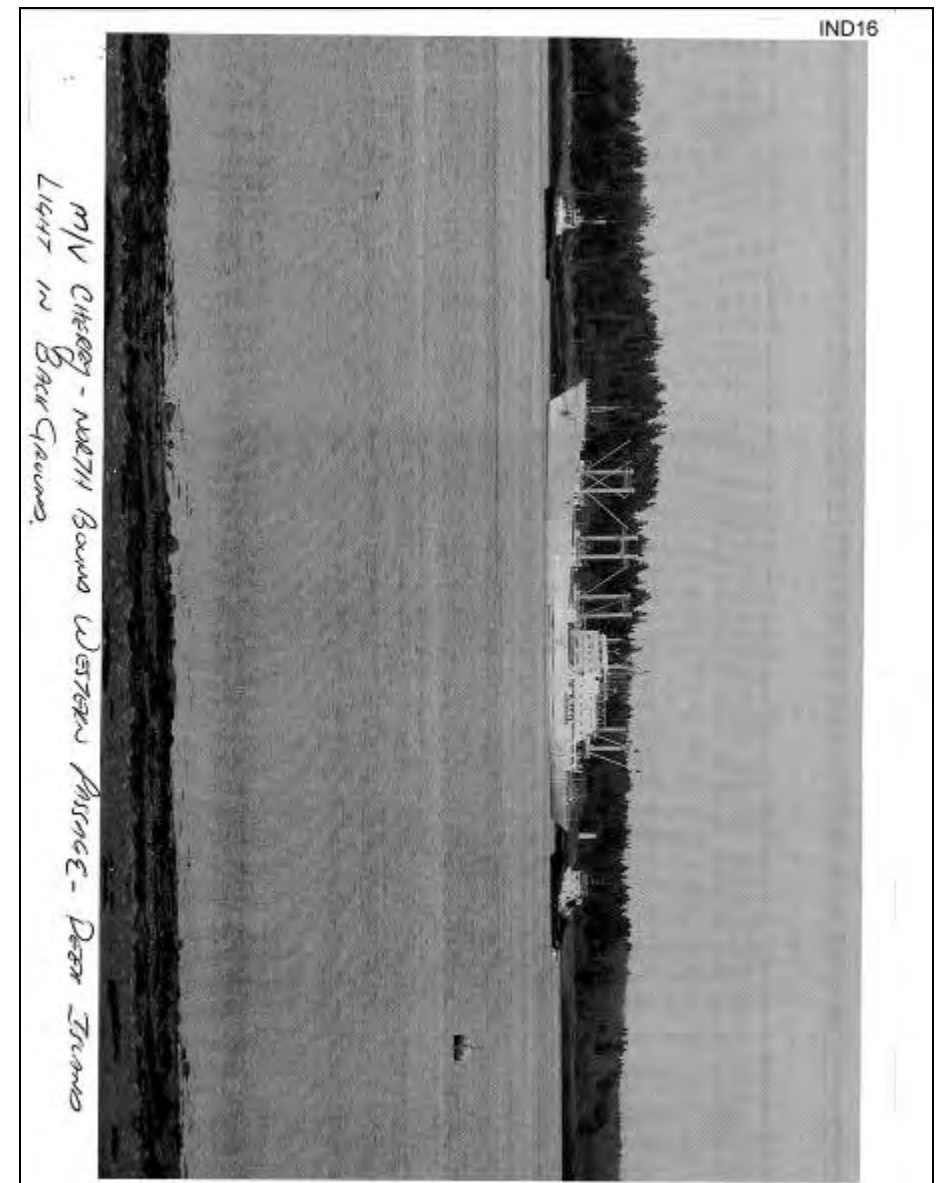
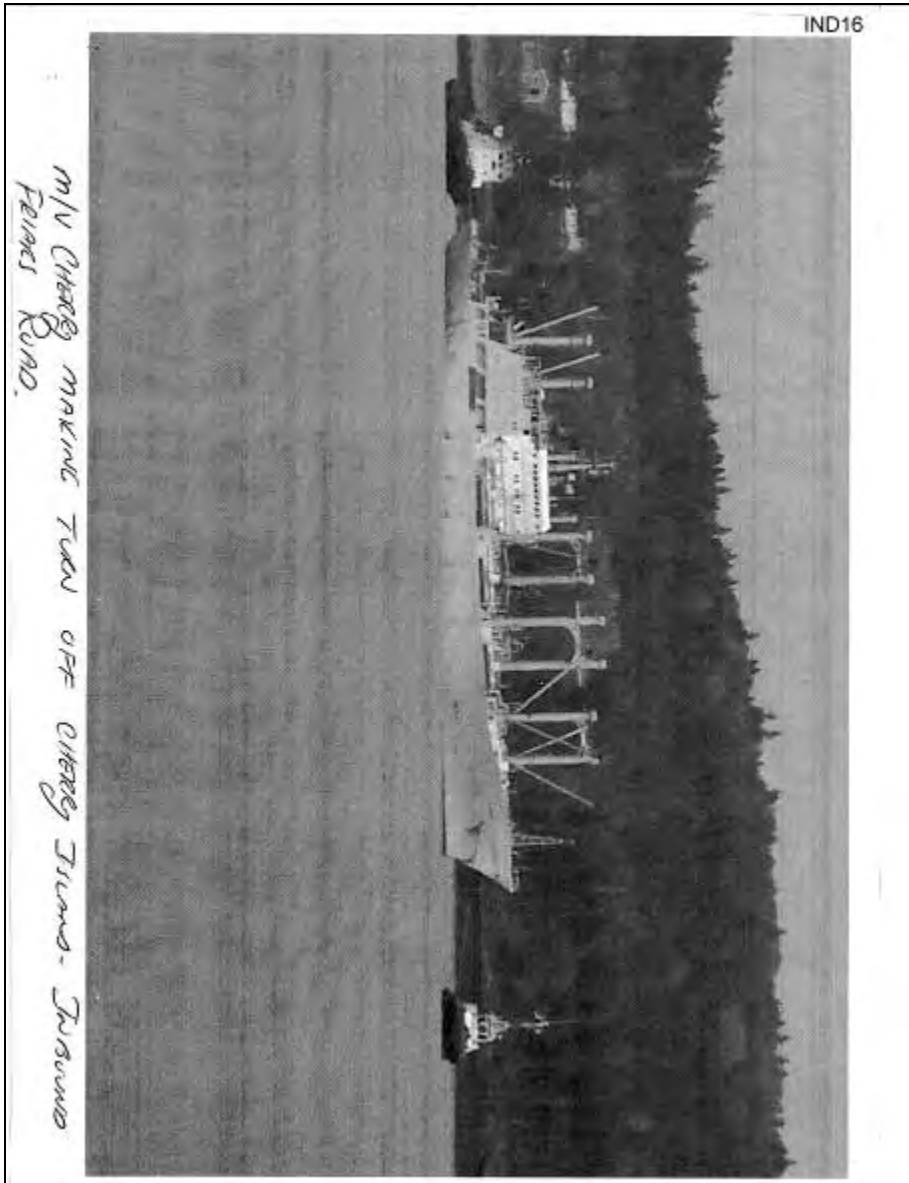
Time (UTC)	Event	Location	Vessel name	Call sign
2009-05-16 03:15	Entering Canadian water	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-16 03:40	Master	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-16 03:41	Master	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-16 03:41	Maritime agency	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-16 03:41	Maritime agency	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-16 03:39	Trip remark	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-16 06:13	Trip remark	34 46 00 000N 072 59 00 000W	CHERRY	ESU2134
2009-05-17 06:47	Report	ZLTFBI Escarg Z. Lime Maritime	CHERRY	ESU2134
2009-05-17 11:04	Report	Maritime Voluntary R.P. 102	CHERRY	ESU2134
2009-05-17 12:42	Maximum draft	Maritime Voluntary R.P. 102	CHERRY	ESU2134
2009-05-17 12:43	Cargo in	Maritime Voluntary R.P. 102	CHERRY	ESU2134
2009-05-17 12:56	Trip remark	Maritime Voluntary R.P. 102	CHERRY	ESU2134
2009-05-17 16:07	Trip remark	Maritime Voluntary R.P. 102	CHERRY	ESU2134
2009-05-17 16:37	Trip remark	Maritime Voluntary R.P. 102	CHERRY	ESU2134
2009-05-22 17:30	Report	Maritime Voluntary R.P. 101	CHERRY	ESU2134
2009-05-23 13:09	Report	Saint John 1P Inbound	CHERRY	ESU2134
2009-05-23 16:20	Report	Saint John 2P Inbound	CHERRY	ESU2134
2009-05-23 17:14	Report	Saint John 3P South Inbound	CHERRY	ESU2134
2009-05-23 20:23	Report	Saint John 4P Inbound	CHERRY	ESU2134
2009-05-23 22:30	Report	Saint John 5P West Inbound	CHERRY	ESU2134
2009-05-24 00:46	Arrival	Bayside	CHERRY	ESU2134
2009-05-24 00:46	Cargo out	Bayside	CHERRY	ESU2134
2009-05-24 00:46	Maritime agency		CHERRY	ESU2134
2009-05-24 00:46	Master		CHERRY	ESU2134

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nts: Trip remarks, Agents, Captains, Cargos,

Lloyd's number	Flag	Description
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7110062	COOK ISLANDS	FUNDY GYPSUM COMPANY (DIV. OF USG CANADIAN MINING), FUNDY GYPSUM COMPANY (DIV. OF FUNDY GYPSUM COMPANY (DIV. OF
7110062	COOK ISLANDS	FUNDY STEVEDORING, FUNDY STEVEDORING FUNDY STEVEDORING
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	Value: 8.70 meters
7110062	COOK ISLANDS	Fish (7880.00 MT)
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	
7110062	COOK ISLANDS	Fish (7880.00 MT)
7110062	COOK ISLANDS	FUNDY STEVEDORING, FUNDY STEVEDORING FUNDY STEVEDORING
7110062	COOK ISLANDS	DOMINGO MANGUARDIA





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Ms. Kimberly D. Bose, Secretary,  
Federal Energy Regulatory Commission,  
Washington, DC 20426

Comment on the Executive Summary (ESI to ES-6)  
Downeast LNG, Inc. And Downeast Pipeline, Docket Nos. CP07-53-000, CP07-53-000, CP07-53-001

Dear Ms Bose:

I submit to you that the draft Environmental Impact Statement (EIS) prepared by FERC to address Downeast LNG, Inc.'s terminal, pipeline, and associated facilities is incomplete and flawed in context and execution since the EIS does not use the modern accepted principals of Ecosystem Management demanded by many of its cooperating agencies (NOAA, NMFS, USEPA, Gulf of Maine Council on the Marine Environment and their equivalents in Canada; Environment Canada, Parks Canada, Natural Resources Canada, and Fisheries and Oceans Canada.)

Additionally, by focusing on the immediate vicinity of the development and ignoring important information and environmental data requirements for the Quoddy Ecosystem as a whole, regardless of political boundaries, the EIS falls far short of providing answers that would reasonably and scientifically be expected in assessing a project of this magnitude; particularly one that threatens to alter the local existing Canadian and American socio-economic norms that have, for centuries, been based on the abundant natural resources of the Quoddy Ecosystem.

Further, the location of such facilities on an international border adds additional requirement to the EIS that must be addressed. The position of the Canadian Government notwithstanding, a review of the literature cited shows that the study does not refer to important and seminal environmental and social studies carried out in the Quoddy Region (one of these at the proposed terminal site) and published in Canada, the United States and elsewhere. As a result, the biological assessments can only be viewed as incomplete and, in some instances, without merit from an ecosystem perspective. Further some of the field work appears to be in error.

Finally, in many instances, the proposed mitigation lacks the essential knowledge required to apply such mitigation. It is my intention to submit specific details on various parts of the EIS assuming this can be done within the deadline and it is my intention to include discussion of mitigation in those submissions.

But, I would like to expand on the points made above about the scope of the EIS as presented in the Executive Summary.

#### **Ecosystem Management**

It is no longer enough to survey the immediate development site and make sweeping statements about what is or is not present based on cursory field and literature surveys. In fact, the United Nations Environment Programme fosters Ecosystem Management, stating: *Scientific evidence shows that ecosystems are under unprecedented pressure, threatening prospects for sustainable development. While the challenges are daunting, they also provide opportunities for local communities, business and government to innovate for the benefit of communities, economies and the global environment. However, in order to secure the environmental conditions for prosperity, stability and equity, timely responses that are proportionate to the scale of the environmental challenges will be required. In creating such responses, governments, the international community, the private sector, civil society and the general public all have an important role to play. As the environmental programme of the United Nations, UNEP is working to articulate, facilitate and support appropriate responses.*

It has long been recognized that the Passamaquoddy Bay Ecosystem encompasses Passamaquoddy Bay; its river systems, Western Passage, Cobscook Bay, Friars Road, West Isles, and Head Harbour Passages with influences occurring offshore as far as Point Lepreau and Grand Manan Island. The essential ecological structure of this special and unique area has been known for over 100 years, but was first placed in context in the publication

IND17-1

IND17-1 See response to Comment PM1-6.

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*Marine and coastal systems of the Quoddy region, New Brunswick* (1983, Can. Spec. Publ. Fish. Aquat. Sci 64: 306 pp.) by Dr. Martin Thomas, Professor Emeritus, University of New Brunswick at Saint John. Subsequently numerous studies and scholarly documents and reports have attested to this fact and further have identified the area as ecologically and biologically unique on the east coast of Canada and the New England States; so unique in fact that West Isles has been designated by Parks Canada as a Canadian "Area of National Significance". Similarly, Head Harbour Passage has been recognized as an "Area of Global Significance" for marine birds by Important Bird Areas of Canada (IBA), BirdLife International, Bird Studies Canada and Nature Canada. Additionally, significant areas are well documented and known as presented by: Bazeta, M-L, R. Singh, and S. Young-Lai. *Identification of Significant Marine and Coastal Areas in the Bay of Fundy*, Can. Manu. Rpt. Fish. Aqua. Sci. 2635, 2003.

#### On the Border

While there may well be another agenda at play, the proposed location of this and the other two proposed LNG terminals on the Canada/United States border makes no sense within the context of an EIS, let alone from a security perspective. More particularly, it is well known that such a development may well lead to the development of other heavy industry such as co-generation plants and plastics manufacturing. The results are cumulative. It is not one single development and the social environment must indeed be part of any such assessment. But, the notable exclusion of social assessments and implications on the Canadian side of the Passamaquoddy border makes no sense and is, frankly, more than a little insulting to those Canadians who have invested their lives in this area developing aquaculture, fisheries, tourism, manufacturing, education, and research. In fact, the towns, villages, and rural residents of Charlotte County, New Brunswick, contribute annual revenues estimate to be in excess of 500 million dollars; employing thousands of individuals – all largely based on the natural resources of the Quoddy Ecosystem.

Finally at a time when we are increasing security along our borders as a result of 9/11, why, when there are reasonable alternative locations, would we create an international port which will see foreign vessels with dangerous cargo passing back and forth between our two countries as they proceed to terminals on a border that is historically difficult to control? This makes no sense. It is like inviting disaster to visit.

#### Mitigation

In the absence of knowledge, there can be no mitigation. How can DELNG mitigate against impacts in Canadian waters when they have little or no knowledge about these waters as shown in this EIS and, more specifically, do not have the jurisdiction to operate in Canadian waters without the express permission of the Government of Canada? Further, is FERC and DELNG aware that Canada, long before LNG became an issue, was and is still considering West Isles/Head Harbour Passage as a National Marine Park, a Marine Protected Area, or a Marine Managed Area?

I respectfully request that this draft EIS be revised and expanded to include the entire Quoddy Ecosystem and its essential biological and social components, American and Canadian.

Respectfully

Arthur A. MacKay, B.Sc.  
Marine Biologist

IND17-2

IND17-3

IND17-2 Section 4.13 of the EIS discusses the cumulative impacts of the Downeast LNG Project in combination with other past, present, and reasonably foreseeable future projects, including other approved, constructed, proposed, or announced LNG facilities in Maine and Maritimes Canada. Construction of the projects considered in section 4.13 could have a cumulative negative impact on recreational and commercial fishing and tourism; however, we believe these impacts would be short-term and insignificant. If all of the projects considered in Section 4.13 were operational, we believe they could have cumulative impacts on recreational and commercial fishing and tourism in the area as a result of the increased marine traffic. A moving security zone imposed around LNG vessels, as recommended by the Coast Guard in their WSR, could impact commercial, recreational, and fishing boats during the arrival and departure of the LNG vessels. Given the limited amount of LNG vessel traffic, implementation of vessel traffic management practices recommended by the Coast Guard, advance notice to United States and Canadian authorities from the LNG vessels transiting the area, and the limited time that nearby marine traffic could be interrupted, we have determined that impacts on commercial and recreational marine activity would not be significant. Section 4.13.10 of the EIS discusses potential indirect impacts of the Downeast LNG Project. We have determined that secondary economic activity associated with the proposed project would be minor and would not be sufficient to stimulate additional industrial growth. See response to Comment CO3-2

IND17-3 See response to Comment PM1-6.



IND18

Arthur A. MacKay  
5471 Ave 127  
Buckley, NB  
E5D 1J8

June 30, 2009

Kathleen P. Song, Secretary  
Federal Energy Regulatory Commission  
889 First Street, N.E., Room 18  
Washington, DC 20125

Re: Deepwater LNG DESG (Docket Numbers: CP07-52-000, CP07-53-000, and CP07-53-001)

Dear Ms. Song:

*Excerpts on the record for the Deepwater LNG Inc. Risk to our Canadian Regulatory Mandates from Deepwater LNG Inc. and Deepwater Energy, Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001*

As you can see from the attached diagram, for regulatory purposes, the Government of Canada defines seven components of an LNG system, such as that proposed by Deepwater LNG, Inc. Two of these components, the ship (1) and the jetty (2) will exist in or impact upon Canadian and provincial New Brunswick jurisdictions. I submit to you that the Draft EIS is incomplete under the regulatory requirements in Canada and New Brunswick are addressed within the context of these regulations. Further, I submit to you that, however valued the opinion of the United States Coast Guard, the waterway suitability study does not include Canadian and Provincial New Brunswick laws and regulations, particularly those that speak to environmental considerations that have already been considered during and subsequent to the Port of entry proposal several decades ago.

IND18-1

IND18-1 See response to Comment PM1-6.



Figure 1. Components of an LNG operational system (Natural Resources Canada). Components 1 and 2 are addressed

Deepwater LNG Inc.'s proposed facility has two important components firmly in Canadian jurisdiction. The assertion that Canadian law and regulation must be addressed falls into three categories:

- 1) Passage through Canadian waters (Facility Component 1). Regardless of the highly public views on UNCLOS and the so-called rights of "innocent passage," Canada does have sovereign rights and obligations to protect its critical habitat and marine species under UNCLOS and existing Canada-US treaties such as NAFTA, the Migratory Birds Convention Act, etc. The fact is: Deepwater Energy, Grand Marine Terminal and the facilities in the Bay of Fundy are regulated under Canadian law and the regulatory structure presented in the accompanying table clearly shows the path that any developer must follow to have their project approved in Canada – and this project cannot proceed without passing through Canadian waters regardless of the position taken by US agencies.

IND18-2

IND18-2 See responses to Comments PM1-6 and NA4-1.

IND18

- 2) Environmental disruption during construction and operation (Facility Component 2). It is impossible for Downeast LNG Inc. to construct its jetty and related shore-based structures without creating impacts in Canadian waters and Passamaquoddy Bay proper. Since the sediments of the St. Croix Estuary are known to harbor toxic substances and since, in any event, sedimentation may cause detrimental impacts on existing flora and fauna lying just offshore in Canadian waters, it is essential that Downeast LNG Inc. determines the Canadian regulatory and legal requirements for their development at Mill Cove and for them to identify in the draft EIS the path they will follow to accomplish this essential environmental step in the process. Without this information, the draft EIS does not fulfil the requirements of regulations, treaties, laws, and ecosystem management principles as defined by the United Nations and most environmental agencies in North America.
- 3) Layovers (Facility Component 2). There will be numerous occasions when tankers will not be able to leave or enter Passamaquoddy Bay due to tides and weather. These ships may need to layover in Canadian waters, causing longer displacement in critical areas than projected in the EIS which assumes regular "in and out" activities of the tankers. However, as an example, the very first tanker into Canaport LNG was forced to hold at sea due to weather. In support of this contention, I have included a wind assessment chart (Figure 2) that suggests the wind climate is not as benign as implied in the draft EIS.

IND18-3

IND18-4

IND18-5

Further, the absence of, reference to, or analysis of, Canadian environmental studies is a serious shortcoming since most of the important work on Passamaquoddy Bay, West Isles and the Quoddy Region are in the Canadian literature. Of particular concern is the lack of understanding on the risk involved in the passage of large vessels through Head Harbour Passage. The Canadian government made its position clear during the Pittston oil refinery hearings based on two important scientific studies that determined: 1) Head Harbour Passage is the most dangerous marine area on Canada's east coast, and 2) large vessels such as VLCCs should not be allowed to pass through Head Harbour Passage because of the high value of the ecosystem (biological productivity and fisheries) in the West Isles/Head Harbour Passage area and the "unacceptable risk" that large tankers would bring to this area. While the cargo is different today, nothing else has changed. In fact the value of resource-based industries has grown with the advent of aquaculture and the growing importance of sustainable manufacturing, tourism, research, and education.

IND18-6

Table 1. Liquefied Natural Gas Regulatory Requirements (Canada). Note: only regulations related to Facility Components 1 and 2 have been included. Adapted from: <http://www.nrcan.gc.ca/ene/enr/sources/natnat/begreg-eng.php>

#### Components of a Generic LNG Receiving Terminal

Department or Agency with Responsibility	Type <sup>1</sup>	Facility Component <sup>2</sup>	Assessment <sup>3</sup>	Instrument <sup>4</sup> to Issue	Legislative Requirement
Federal					
Canadian Environmental Assessment Agency	Federal	Depends on each project and on what has triggered the environmental assessment	Environmental (for comprehensive studies and panels). Note: For screening level assessment, the decision is made by the responsible authority	Decision	Most LNG facilities will trigger the Canadian Environmental Assessment Act. For the projects which will require a comprehensive study or panel review level environmental assessment, the Minister of the Environment will have to render a decision on the environmental

IND18-3 See response to Comment NA4-25.

IND18-4 See response to Comment PM1-6 regarding impacts on Canadian resources. The Downeast EIS addresses environmental, navigation, safety, and security concerns that have been identified during the EIS scoping process, including issues and concerns raised in the Canadian Study (SENES 2007). International law is beyond the scope of this EIS. Nevertheless, we address resources in Canada to the extent that they would be affected by the project based on information provided by Downeast, our own research, and information provided in the Canadian Study (SENES 2007). We have determined that any adverse impacts resulting from the construction and operation of the Downeast LNG Project can be reduced to less-than-significant levels with the implementation of Downeast's proposed mitigation measures and the additional measures we recommend in the EIS.

With regard to LNG vessel transit of Canadian waters, the Coast Guard has determined that the waterway is suitable for the type and frequency of marine traffic associated with the proposed project, provided that the risk mitigation measures outlined in its WSR, which include collaboration and coordination with the Government of Canada, are fully implemented. The Coast Guard and FERC acknowledge that bilateral agreements would be necessary to ensure the safety of the waterway; however, neither agency has the jurisdiction to specify the content of those agreements.

IND18-5 The Coast Guard's WSR recommends risk mitigation measures in section 4.6 that address your concerns. Under these recommended measures, Downeast must develop standard operating parameters taking into account environmental constraints, including but not limited to visibility, wind, sea state, currents, and tides. Section 4.12.7.6 discusses the Coast Guard's recommendations in detail.

IND18-6 See response to Comment IND18-4. We believe the Coast Guard's risk mitigation measures and FERC's recommended conditions outlined in Section 4.12 of the EIS have adequately addressed safety and risk.

IND18

					assessment prior to the responsible authority being able to issue a permit, a licence or other type of decision (land or money).
Transport Canada Marine Safety Navigable Waters Protection	Federal	1, 3, 3.4, 5, 6.7 All seven components may be included depending on the scope of the EA	Engineering, safety, environmental, other	(Advisory)	Any new or altered works in, on or over navigable water require approval from the Regional Superintendent of Navigable Waters Protection Approval across other, among other things, a positive EA from Transport Canada Environmental Affairs. The EA will be triggered under the Navigable Waters Protection Act Sections 5.1, 5.2, 6.4, 10.1, 10.2.
Transport Canada Environmental Affairs Environmental Programs	Federal	1, 2, 3.4, 5, 6.7 All seven components may be included depending on the scope of the EA	Environmental	Environmental Assessment (Screening report, comprehensive study, or panel review)	Environmental Programs provides an EA report to NWP (see above). Approval from NWP can only be given with, among other things, a positive EA.
Transport Canada Marine Security	Federal	1, 2, 3, 4, 5, 6	Security	Certificate of Compliance	Marine Transportation Security Regulations (MTSR) require that the facility, port and ship have a security plan approved by Transport Canada Marine Security.
Transport Canada Marine Safety Regional Director General's Office Tempol Review Committee (TRC)	Federal	1, 2, 3	Data and operational review process. Analysis of various safety surveys	TRC provides a forum to discuss considerations in a proposal	Although the Tempol policy (Tempol 11743) is not a mandatory instrument, it is recommended as guidance to the respondent. The Tempol Review Committee is an interdepartmental working group which applies relevant acts and regulations in an operational context.
Transport Canada Marine Safety Compliance and Enforcement	Federal	1	Safety	Certificates of Compliance	There are a number of operational certificates that an LNG tanker will require in order to operate in Canadian waters. These

IND18

					certificates are issued upon positive inspection of the subject vessel under various inspection regimes (Port State Control, Canada Shipping Act, Canada Labour Code, etc.)
Fisheries and Oceans Canada	Federal	3, 7	aquatic environment	Authorization	The formal alteration, destruction or disruption (HADD) of fish habitat will require an authorization pursuant to section 35 (2) of the Fisheries Act. The installation of a jetty or pipeline watercourse crossings are the most likely activities to cause HADD, creating the need for the necessary authorization and triggering the environmental assessment process under the Canadian Environmental Assessment Act.
Environment Canada	Federal	4	environmental and engineering	Permit	Management of sediment and material from certain construction and maintenance activities (e.g. dredging, dewatering, blasting) may require a Disposal at Sea Permit pursuant to CEAA. Would trigger an environmental assessment under CEAA.
National Energy Board	Federal	1	Other	Licensing Order	All LNG imported into Canada will require an import licence pursuant to Part VI of the National Energy Board Act (NEB Act) or an order pursuant to the National Energy Board Act Part VI (Oil and Gas) Regulations.
National Energy Board	Federal	1, 3, 4, 5, 6	complete (engineering, security, environment, etc.)	Certificate or Exemption Order	Proponent may seek Certificate of Public Convenience and Necessity pursuant to s. 52 of the NEB Act or an exemption under pursuant to s. 58 of the NEB Act to

IND18

					construct and operate LNG Import Facility. Facility could also trigger an Environmental Assessment under CEAA.
National Energy Board	Federal	1,3,4,5,6,7	Tolls & tariffs	Order	TLNG facility falls under NEB Regulation, the NEB may be required to set tolls and tariffs for the facility under Part IV of the NEB Act.
Natural Resources Canada	Federal	1,3,4,5,6,7	complete (engineering, environment, etc.)	Governor in Council approval of Certificates	Certificates of Public Convenience and Necessity become effective only after Governor in Council (GIC) approval. The Minister of NRCan recommends approval of the NEB's certificate to GIC. GIC's approval represents the Crown's endorsement of the responsible minister's recommendation.
Natural Resources Canada	Federal		Other	Licence	Import licences do not become effective until approval by Governor in Council. Import orders do not require GIC approval.
New Brunswick					
New Brunswick Department of the Environment and Local Government	Provincial	1,2,3,4,5,6,7	environmental - broadly defined to include biological and socio-economic components	Ministerial Determination or Lieutenant Governor in Council Approval	NB Regulation 87-83 - Environmental Impact Assessment Regulation, under C-6, the Clean Environment Act.
New Brunswick Department of the Environment and Local Government	Provincial	2 (related to noise from pile driving for the pier), 3,4,5,6 - Sounders of Ordinary High Water Mark (OHWL)	environmental and engineering	Certificate of Approval	Approval to Construct under NB Regulation 82-126 - Water Quality Regulation, under C-6, the Clean Environment Act, and NB Regulation 97-133, under C-5.2, the Clean Air Act.
New Brunswick Emergency Measures Organization (NBEMO) and City of Saint John Fire Chief	Provincial and Municipal	1,2,3,4,5,6,7	safety	Approval	Emergency Response Plan required to be submitted by proponent and approved by NBEMO and City of Saint John Fire Chief as a condition of the NB EIA Approval.
Atlantic Pipeline	Federal	1	safety, engineering	Approval	A simulation exercise

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Authority (A/N)					involving the LNG vessel pier and surrounding environment must be developed with input from a number of federal marine agencies and approved by APA prior to initiation of construction of the pier.
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New Brunswick Department of Public Safety	Provincial	1,2, may also include other components	security	A Facility Security Plan must be submitted by the proponent to both the NB Department of Public Safety and Transport Canada (see above) 6 months prior to operations in accordance with the Marine Transportation Security Regulations. This is a condition of the NB EIA Approval.
New Brunswick Department of Public Safety	Provincial	2,3,4,5,6,7	engineering	Operational and abnormal reporting requirements specified as a condition of the NB EIA Approval.
New Brunswick Department of the Environment and Local Government	Provincial	1,2,3,4,5,6,7	environmental	The proponent must develop a tracking database itemizing all permit and approval conditions as well as the commitments made to the Environmental Impact (EIA) Approval. This includes follow-up commitments for environmental effects monitoring.

1. e.g., Federal, Provincial, Municipal  
2. use numbers from diagram  
3. e.g., engineering, safety, environmental, security, other  
4. e.g., permit, order, licence, certificate

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Figure 2. Sensitivity of the Coasts of New Brunswick to Storm Waves, Stephanie O'Carroll and Dominique Berube (1999)

Thank you for your consideration.

Sincerely,

Arthur A. MacKay, B.Sc.

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STATEMENT of LESLEY PINDER, M.D.

I have lived in Charlotte County, New Brunswick since 1977 when I started my medical practice. I have an office in St. Stephen, and a weekly clinic on Deer Island. At the present time, I live in St. Andrews, am the medical director of Passamaquoddy Lodge (nursing home in St. Andrews), and still attend the Deer Island Medical Centre on one or two days a week. In addition, I still have a medical office in St. Stephen and look after patients in our community hospital.

Prior to studying medicine at the University of Toronto, I taught in the Biology department at the University of New Brunswick and my area of interest and research (although limited in years) was in fisheries biology, and in particular, the Atlantic Salmon.

I have many concerns over the LNG proposals, as a physician, former biologist, resident with homes in St. Andrews and Deer Island, and as a recreational boater.

Population and Public Health researchers are becoming more interested in the long-term health implications of excessive noise and light effects on human life-cycles as mediated through the neuro-endocrine axis.

Indirectly, since the health of marine wild life also factors into our sense of well-being, or our life-long work (as in the case of fishermen), I have included some important implications on the "other than human" species.

Signed under penalty of perjury this 30 day of June, 2009



# INTRODUCTION

This presentation will deal with noise pollution and light pollution including light at night (LAN) and the effects on both humans and marine life (birds, mammals, and fish). Population and Public Health researchers are becoming more interested in the long-term health implications of excessive noise and light effects on human life-cycles as mediated through the neuro-endocrine axis.

Indirectly, since the health of marine wild life also factors into our sense of well being, or our life work (as in the case of fishermen), I have included some important implications on the "other than human" species.

During the construction phase of the terminals, wharves, and storage tanks for the LNG, noise and light pollution (LAN) would be problematic. The considerable noise and vibrations from the turbines, engines, generators, tankers and pilot boats would also be present once the facilities are built, and impact both humans and wildlife.

IND19-1

Considering that on a summer night you can stand on the western shore of Deer Island and hear a radio being played on the US shore across the bay, one can just imagine how much industrialization would change an otherwise quiet and serene location.

In addition, tankers pilot boats, wharves, terminals, and storage tanks would all have lights at night (LAN); and due to security measures, high intensity lights would be employed.

People are now realizing that dark sky is necessary for both human well-being and enjoyment, as well as for animal activity. This has led to the proclamation of certain areas being designated as Dark-Sky protected.

IND19-1 Potential impacts from construction and operation noise on fish, wildlife, and humans are addressed in Sections 4.5, 4.6, and 4.11.2, respectively, of the EIS. Lighting at the LNG facilities is discussed in Section 4.7 of the EIS. We believe that the analyses, proposed mitigation measures, and our recommended conditions are sufficient to protect the human and animal environments.

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NOISE POLLUTION AND LIGHT AT NIGHT

Noise that is part of industrialization requires definitions in order to evaluate outcomes. Noise is usually defined as "unwanted sound", and its origins are found in human activities, especially those associated with the development of industry. Noise can also be altered or varied as a result of topography and can be a source of annoyance even more than predicted due to reverberation effects and convection of sound waves (see Appendix 1).

Because the perception of noise is subjective, it needs to be quantified by description. *Sound* is the physical component and is described according to strength, frequency or frequency composition, and its time history. The use of equivalent continuous sound pressure levels is becoming acceptable as a scale for the measurement of long-term noise exposure, and is known as L<sub>Aeq</sub> [in dB(A)]. Whereas some sounds are important to our quality of life (music, laughter, birdsongs), sounds of a particular character such as low frequency sounds or single tone sounds are perceived as being very annoying. Noise from industrial installations radiates from a point source and the shape of the exposure area is generally circular. The World Health Organization has set guidelines for noise in specific environments and these are available on their website ([www.who.int](http://www.who.int)).

Sleep disturbance (starting at 30dB (A) for steady-state noise at a sleeper's ear) can result in fatigue, headaches, gastrointestinal upsets and deterioration of mood. It increases sympathetic nervous system stimulation and can result in increased blood pressure. Noise interferes with speech and communications, and especially, has been shown to interfere with children's ability to learn and perform complex tasks. Changes in social behavior such as increased aggression have been observed as a result of noise pollution. Noise also has an adverse effect on our immune system, probably mediated through the adrenal glands and biological clock centre.

Interestingly, today's anti-noise regulations are derived from Old English Common Law, where in the 1600's a British Chief Justice ruled that the rights of habitation are superior to the rights of trade, and whenever they conflict, the rights of trade must yield to the primary or natural rights. (*Noise and the New Silence*, 1973 by Lucy Kowaler)

And what of the impact of noise on wildlife, both above and below the ocean's surface? In the event of increased tanker traffic, the Bald Eagle habitat around Head Harbour Passage would see feeding interruptions. This in turn results in reducing energy intake, and together with flight from panic, would increase energy consumption affecting eagles nesting in areas along the shoreline. The altered metabolism causes reproductive losses, and fledgling failures. There is a new puffin colony nearby and last year the rare red Phalarope returned to the bay. These too would be affected by noise disturbance, severely placing these populations at risk.

Marine mammals that rely on echo location to find mates, avoid prey, or determine their migration routes will be affected by noise as well. Supertankers are the largest man-made source of ocean noise, and can be heard underwater a full day before they appear on the horizon.

Sound pressure waves from construction activities can affect fish behavior, feeding, swimbladder function (including possible rupturing) and initiate internal hemorrhaging. Swimbladder function is important to the Atlantic Salmon especially during its post-smolt transformation, and the resulting migration. Sound pressure waves could interfere with this function. Consequently, the Denny's River salmon population, as well as other salmon rivers in the area is at increased risk.

3

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LIGHT and the EFFECTS of LIGHT POLLUTION & LIGHT AT NIGHT (LAN) on Birds, Fishes, & Humans:

According to the International Dark-Sky Association, "Dark is our oldest environmental resource and the stars are our parents in the most fundamental sense." Ecological light pollution includes sky glow, lighted structures, security lights, and lighting on boats.

"Many of the effects of artificial light may resonate up and down food chains, dragging whole ecosystems into imbalance. And by modifying the playing field on which nocturnal organisms develop, interact, and reproduce, artificial light may sculpt not only their individual lives, but also the evolution of the species." "That", says Buchanan, "is the most important overlooked of all the potential ramifications of artificial light." *Light Harrier: Unprecedented darkness, Conservation in Progress, Spring 2004, Vol 5, No 2*

In simple terms, light varies in intensity (photons per unit) and in its specific content (wavelength). For practical purposes, light is measured in lux which expresses intensity of light incident on a surface weighted for our human eyes' spectral sensitivity. It is possible to adjust lux for non-humans, but engineering and scientific publications use the lux measurement. Also, in some species, it is the rate of change that is crucial and not the absolute lux value. Some examples for comparison are:

Full moon on a clear night	0.1 - 0.3 lux
Quarter moon	0.01 - 0.03 lux
Starry Sky	0.001 lux

With respect to the influence of artificial light on maritime birds, we find effects on reproduction, migration, searching for food, and consequently parenting behavior. Moisture droplets in the air refract more light and greatly increase illumination; so in fog and drizzly conditions, many more birds are unfortunately attracted to the light and often circle lighted areas for hours. Also, maritime birds tend to fly closer to land at times of fog and overcast conditions.

Migration in spring and summer are also trying times of high mortality associated with coastal and off-shore lighting. These birds can easily be disoriented and often collide with structures or circle the lighted area until they drop from exhaustion. Artificial light increases the so-called day length which can affect the timing of migration. Altering hormone levels and longer feeding times due to LAN result in early departures for returning arctic migrants and delaying autumn departures with dire consequences.

Artificial night lighting and fishes

The nighttime light, unpolluted, is one of moonlight, stars, and clouds. It is this environment to which the aquatic fish have been adapted. Docks, terminals, vessels, and security lights all will impact fish populations. Salmon species have been studied because of their economic importance, as in the case of the Atlantic Salmon, because of its endangered status.

Telosts represent 96% of all fishes, and include for example, herring, smelts, cod, trout, tuna, salmon, halibut, flounder, and flounder. Feeding, schooling and migration depend on specific light intensities. Underwater light perception depends on both the ability of the light to penetrate the water, and also the spectral properties of the fish's retinal light receptors. For example, in Salmon Salar (Atlantic salmon) during the post-smolt transformation as

4

20090610-5106 FERC STAFF (Unofficial) 6/30/2009 12:11:20 PM

IND19

they move from fresh to salt water, their retinal pigments change. These receptors are responsive to ambient light and not to the fishes' internal clock.

Vertical migration of the salmon allows them to maintain a constant light environment where they can forage on zooplankton and still be minimally detected by predators (Schwemmler and Schindler, 2003). This "anti-predation window" will be eliminated or reduced in environments subject to increased artificial illumination.

Salmon migrate from their freshwater streams and rivers to the estuaries and out to the salt water ocean usually moving at night. Returning fish also migrate at night. Altered light environments interrupt this migration. Salmon tend to spawn at night (Evans, 1994) as do cod and herring, and tend to stop when light is shone on them (studies done in captivity). Salmon exhibited aggressive behavior when lights were turned on at night (Woodhead, 1966). The point being that increased illumination is correlated with increased risks for our fisheries species.

#### Artificial Light and Humans

Biological clock rhythms are found in all living things, even in organisms as simple as algae (Rea et al., 2004; Reiter, 1995; Reiter 2003; Reiter et al 2001). Clock genes that time our cellular functions were likely inherited from the earth's first simple organisms over 4 billion years ago. Our 24 hour clock is dependent on dark nights that allow normal melatonin production and bright daylight that resets the clock to begin another 24 hour day.

Light pollution has long been recognized as negatively impacting our quality of life and the environment for years and is now being considered a public health issue.

Light receptors in the eye that send electric impulses directly to the biological clock, were only discovered in 2002. These are non-visual photoreceptors. Brown University neuroscientist David Benson discovered a previously unknown function for retinal ganglion cells which are located in the base of the retina. The axons from these cells connect to the biological clock (circadian) centre in the hypothalamus. Light for vision and light for circadian functions are not identical systems, although the retinal-circadian light transmission system is also coupled to the visual system of rods and cones. Most sensitive to blue light, these receptors control the human 24 hour clock which, through light perception, regulates our bodies' sleep patterns, body temperature, the release of hormones from the pituitary gland, and our production of melatonin from the pineal gland.

Melatonin is a hormone synthesized in the pineal gland and production and suppression of melatonin is a circadian (24 hour clock) driven event. It is produced in darkness (highest levels of production coming between 0200 - 0400 hours) and suppressed by light at night (LANN). Melatonin regulates a balanced physiological state, as well as having a free-radical scavenging antioxidant and anti-cancer activity.

Suppression of melatonin was seen at levels of light equivalent to only twice the light of a full moon. When rats with implanted human breast cancer glands had darkness interrupted, the cancers grew faster than in the normal 24 hour light-darkness groups. In experimental animals, dim light enhances tumor growth (e.g. liver cancer). In other words, melatonin has oncostatic properties (Blask et al., 2003; Blask et al., 1999; Blask et al., 2002; Blask et al., 1992; Blask et al., 2002).

Over 90% of human ductal carcinomas and over 80% of normal breast tissue have melatonin receptor sites, and the melatonin attaches itself to the receptor, indirectly preventing tumor uptake by affecting metabolic pathways, thus inhibiting cancer cell growth (Blask et al., 2003). Melatonin may also slow development and turnover of normal mammary cells which are at risk of malignant transformation and is therefore also directly oncostatic. The evidence is mounting that shows these linkages between light, circadian disruption, and cancers in humans (breast, colorectal,

6

20090610-5106 FERC STAFF (Unofficial) 6/30/2009 12:11:20 PM

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prostate and gastrointestinal). The antioxidative activity and immune-modulating mechanisms of melatonin are becoming more and more important in cancer research.

Melatonin concentrations in humans drop to half the maximum value within 10 minutes of exposure to light. In humans, melatonin has been shown to have an anti-stress function, and the low levels of melatonin found in the depression associated with Seasonal Affective Disorder (SAD) and the very low levels found in Schizophrenia illustrate the importance of the biological clock and the interruption by LANN could further destabilize such patients.

Sleep disruption and deprivation not only suppresses the melatonin peak, but also the cortisol peak. Chronic sleep deprivation has been linked to carbohydrate metabolism disruption, thyroid hormone disruption, elevation of the sympathetic nervous system activity ... all via the hypothalamus-pituitary-adrenal axis (Sleep disturbance effects on humans were mentioned under the *Noise Pollution* section).

In conclusion, it is important to remember that the precautionary principle is no longer just a theory. Writing in *Scientific American* (2001), David Appel notes how the precautionary principle is increasingly finding its way into international agreements. He noted for example, that while it is already a matter of law in Germany and Sweden, the precautionary principle may soon guide the policy of all Europe (Carlini, S. The Precautionary Principle, [www.preventioninstitute.org/mqprn.html](http://www.preventioninstitute.org/mqprn.html)).

When an activity raises threats of harm to human health or the environment, precautionary measures should be taken, even if some cause and effect relationships are not fully established scientifically. In this context, the proponent of an activity, rather than the public, should be the bearer of proof.

I would hope that you will decide that Presquoddy Bay is not the place for LNG facilities.

Sincerely,

Lesley J. Pinder, MSc (Biol), MD



20090610-5106 FERC PDF (Unofficial) 6/30/2009 12:11:20 PM

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APPENDIX I  
www.hyperphysics.com

### Refraction of Sound

Refraction is the bending of waves when they enter a medium where their speed is different. Refraction is not so important a phenomena with sound as it is with light where it is responsible for [image formation by lenses](#), the [eye](#), [cameras](#), etc. But [bending of sound waves](#) does occur and is an interesting phenomena in sound.

As a column of marching troops crosses from a fast medium to a slow medium, the direction of march changes.

Fast Medium  
Slow Medium

Concrete Swamp

Visualizations of Refraction

As a toy car rolls from a hard floor onto carpet, it changes direction because the wheel that hits the carpet first is slowed down first.

Fast Medium  
Slow Medium

These visualizations may help in understanding the nature of refraction. A column of troops approaching a medium where their speed is slower as shown will turn toward the right because the right side of the column hits the slow medium first and is therefore slowed down. The marchers on the left, perhaps oblivious to the plight of their companions, continue to march ahead full speed until they hit the slow medium.

Not only does the direction of march change, the separation of the marchers is decreased. When applied to waves, this implies that the direction of propagation of the wave is deflected toward the right and that the *wavelength* of the wave is decreased. From the basic [wave relationship](#),  $v = \lambda f$ , it is clear that a slower speed must shorten the wavelength since the frequency of the wave is determined by its source and does not change.

Another visualization of refraction can come from the steering of various types of tractors, construction equipment, tanks and other tracked vehicle. If you apply the right brake, the vehicle turns right because you have slowed down one side of the vehicle without slowing down the other.

[Refraction of light](#)

[Index](#)  
[Travelling wave concepts](#)  
[Sound propagation concepts](#)

20090610-5106 FERC PDF (Unofficial) 6/30/2009 12:11:20 PM

IND19

### Refraction of Sound

If the air above the earth is warmer than that at the surface, sound will be bent back downward toward the surface by [refraction](#).

Source Listener

Warmer air, faster sound speed

Cooler air, slower sound speed

Sound propagates in all directions from a point source. Normally, only that which is initially directed toward the listener can be heard, but refraction can bend sound downward. Normally, only the direct sound is received. But refraction can add some additional sound, effectively amplifying the sound. Natural amplifiers can occur over cool lakes.

Source Listener

Additional sound path as a result of refraction

Direct sound path

[Further discussion](#)

[HyperPhysics\\*\\*\\*\\*\\*Sound](#) [R. Nave](#) [Go Back](#)

[Index](#)  
[Travelling wave concepts](#)  
[Sound propagation concepts](#)

20090610-5106 FERC PDF (Unofficial) 6/30/2009 12:11:20 PM

IND19

## Refraction of Sound

Early morning fishermen may be the persons most familiar with the *refraction* of sound. Consider that you have gone out to a lake before dawn. Just as the sun rises over a cool lake, you may hear someone speak to you, saying "Good morning!" You look around and catch no one. You are just about at the point of questioning your sanity anyway, being out at this time of the morning, so you decide to ignore it. But the voice comes again, "Good morning." Finally you locate the other man who has gotten up at this hour, far across the lake -- much farther than you could normally hear a voice. That fisherman is aware of the early morning lake's effect on sound transmission. The cool water keeps the air near the water cool, but the early sun has begun to heat the air higher up, creating a "thermal inversion". The fact that the *speed of sound* is faster in warmer air bends some sound back downward toward you -- sound that would not reach your ear under normal circumstances. This natural amplification over cool bodies of water is one of the few natural examples of sound refraction.

[Illustration](#)

# Nine [On line](#)

20090610-5106 FERC PDF (Unofficial) 6/30/2009 12:11:20 PM

IND19

## APPENDIX 2 Noise Resources

### Noise Resources

- ☐ General information on sound and noise
- ☐ Noise from oil and gas operations
- ☐ Regulations for a safe residential noise exposure
- ☐ Noise reduction options
- ☐ Noise and its effects on human health
- ☐ Noise and its effects on wildlife
- ☐ Background information on Colorado noise rule

General information on how humans perceive noise

There are some key concepts and facts that will help readers better understand noise:

- ☐ What is noise
- ☐ How do humans perceive sound
- ☐ How is sound quantified
- ☐ How sound travels
- ☐ All noise is not equally annoying

**What is sound?**  
Noise is often defined as unwanted sound. Sound is defined as any pressure variation heard by the human ear. The sound pressure level (SPL) is a measure of the air vibrations that make up sound. Because the human ear is sensitive to a wide range of pressure levels, the SPL is measured on a logarithmic scale with units of decibels (dB).

**How do humans perceive sound?**  
Healthy human ears perceive pressure variations over a wide range of frequencies -- from low frequencies of 20 Hz to frequencies as high as 20,000 Hz. In terms of sound pressure levels, the human ear's range starts at the threshold of hearing (0 dB) and ends at the threshold of pain (around 140 dB).

The human ear is less sensitive to sounds in the low frequencies compared to the higher frequencies. For example, a 50 Hz (low frequency) tone must be at a level of 85 dB in order to be perceived by the listener as being the same loudness as the higher frequency 1000-Hz tone at a level of 70 dB.

**How is sound quantified?**  
As mentioned above, sound levels are usually measured and expressed in decibels (dB). Most environmental noise does not consist of a single frequency, but rather a broad band of frequencies adding in sound level. The intensity of each frequency adds to generate sounds. The method commonly used to quantify environmental sounds involves evaluating all of the frequencies of a sound according to a weighting system which reflects that human hearing is less sensitive at low frequencies and extremely high frequencies than at the mid-range frequencies. This is called "A" weighting, and the decibel level measured is called the A-weighted sound level (dBA).

An issue of thumb, a **doubling in the loudness** of the sound occurs with every increase of 10 dB in sound pressure. In other words, for most individuals a 60 dBA noise would sound twice as loud as a 50 dBA noise.

**How Sound Travels**



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Sound is caused by changes in air pressure. For example, when a mallet strikes a drum the drumhead begins to move back and forth (vibrate). As the drumhead moves down, air is pulled toward it, and as the head bounces back up it pushes air away. This creates changes in air pressure that move (or propagate) away from the drum, eventually striking our eardrums. These changes in pressure are known as sound waves.

There are a number of factors that affect the propagation of sound. The most important include: distance from source; obstacles such as barriers and buildings; atmospheric absorption; wind direction and speed; temperature and temperature gradient; humidity; precipitation; reflection; and ground absorption. [1]

It is important to understand that noise does not always decrease as one moves away from a noise source. The above factors can work to increase or decrease noise levels. For example, at short distances (up to 160 feet) the wind has a minor influence on the measured sound level.

At distances greater than 1,000 feet from a noise source, noise can become louder on the downwind side by as much as 20 dB, while on the upwind side levels can drop by 20 dB (depending on wind speed and distance). [2]

Other things to consider include the fact that vehicle barriers may act to reduce high-frequency sounds, low frequency sounds are difficult to reduce using obstacles or barriers. Additionally, while soft ground surfaces and the atmosphere are effective at absorbing mid frequency and high frequency noise, these factors do not tend to reduce low frequency noise to the same degree. This means that as one moves away from the source, low frequencies often become much more prominent. [3]

#### All noise is not equally annoying

Not all noise has the same effect on humans, nor do all humans react in the same way to noise stimuli. Certain noise characteristics can greatly increase the annoyance factor and the potential health impacts associated with noise. In addition to the sound pressure level, these factors include: 1) difference between the new noise and the prior ambient noise environment; 2) the presence of tonal noise; 3) low frequency noise; 4) fluctuating, intermittent or periodic sounds; and 5) impulsive sounds.

#### Noise from oil and gas operations

Noise from oil and gas development comes from a number of sources: truck traffic, drilling and completion activities, well pumps and compressors. For some landowners, noise from oil and gas operations is so loud or of such a different sound quality that it makes themselves as if they are living in an industrial zone.

For people who live in rural areas, the arrival of a new, industrial noise source can greatly disturb the natural environmental soundscape. Bill and Jill Van Soveran were so greatly affected by the noise of nearby wells and compressors that they were driven away from their home.



Noise from wells and compressors led the Van Soverans to leave their home.

Landowners often complain about noise levels associated with natural gas compressors. The noise level varies with the size of the compressor and distance from the compressor, and it changes with shifts in wind direction and intensity. According to the *Border East Basin Resource Council*, "Depending on the wind direction, the roar of a field compressor can be heard three to four miles from the site. Near the compressor stations, people need to shout to make themselves heard over the sound of the engines."

One Wyoming landowner has described compressor noise in this way:

*Now comes the second phase. The dreadful noise generated by a nearby large compressor station. Noise that was so loud that our dog was too frightened to go outside to do his business without a lot of coaxing. Noise that sounds like a jet plane swirling over your house for 24 hours a day. Noise that is constant. Noise that drives people to the breaking point. My neighbor called the sheriff, state officials and even the governor and was told nothing could be done about the noise. Like*

20090620-5106 FERC EIS (Unofficial) 6/30/2009 12:11:22 PM

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*I said, the noise drives people to the breaking point, and my neighbor fired 17 rifle shots toward the station.*

*(Excerpted from [CBED Destroy Retirement Dream](#).)*

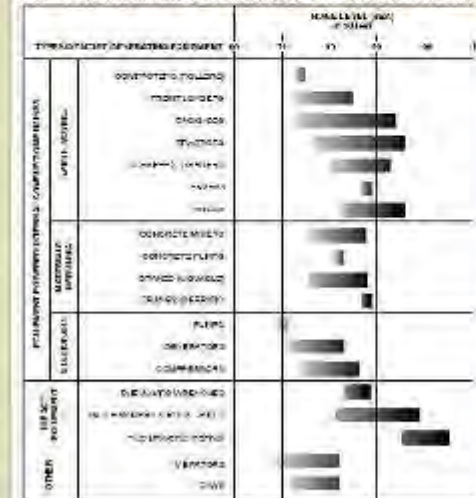
#### How loud is oil and gas noise?

A study in La Plata County, Colorado, reported noise levels for a number of oil and gas activities: [4]

Typical compressor station	81 dBA (50 feet from property boundary)
Pumping unit	80 dBA (50 feet from well pad)
Produced water intake	68 dBA (100 feet from source)
Crane for hoisting rig	68 dBA (100 feet from source)
Concrete pump used during drilling	62 dBA (100 feet from source)
Average well construction site	65 dBA (100 feet from source)

The Bureau of Land Management (BLM) published different numbers. At 50 feet from the source, the measured noise levels were: well drilling - 83 dBA; pump jack operations - 82 dBA; produced water injection facilities - 71 dBA; and gas compressor facilities - 89 dBA. [5]

In the same study, BLM also reported typical noise levels from construction equipment and oil and gas activity. These are presented in the chart below. Again, the sound levels were taken at a distance of 50 feet (15 meters). Estimates of noise attenuation at distances greater than 50 feet can be made by reducing noise levels by a factor of 6 dBA (experience by a receptor, however, will vary based on meteorological



Typical Construction Equipment Noise Generation Levels



Noise levels reported by the Bureau of Land Management: See exhibit 10 [1]

Rationale for a 45 dBA (or lower) residential noise standard

In many residential neighborhoods, especially low density and rural areas, the nighttime noise level is very quiet. According to a Colorado-based noise consultant, ambient noise levels in residential areas are frequently as low as 30 dBA during the night, and are occasionally lower [6]. In these situations, if oil and gas facilities are allowed to emit noise at 45 dBA, the noise will be perceived by many as being twice as loud as the ambient noise in the area. In Alberta, Canada, it has been estimated that the ambient rural noise level is 35 dBA at night.

Noise standards of 45 dBA L<sub>EQ</sub> (nighttime) or lower are used in many jurisdictions that have oil and gas operations.

There are several jurisdictions that require oil and gas operators to meet a 45 decibel level during the night-time, in residential areas. Typically, noise measurements are taken outside, at a certain distance from or at the property line of the receptor (e.g., a house, hospital, etc.). These are called "receptor-based" noise standards. In some cases, noise measurements are taken a certain distance from the noise source ("source-based" standards). In 2005, Colorado amended its noise rule from a "receptor-based" to a "source-based" standard, requiring noise measurements to be taken 350 feet from the oil and gas noise source.

**Alberta, Canada:** Alberta is a major oil and natural gas producing province in Canada. In Alberta, the Energy and Utilities Board has the responsibility for regulating noise from oil and gas operations. The EUB has produced what may be the most comprehensive noise regulations for the oil and gas industry across North America. The EUB essentially has a sliding scale noise standard whereby acceptable noise levels vary with the ambient noise. For example, if a citizen lives in an area where ambient noise is low (e.g., where housing density and traffic noise are low), then the oil and gas operator must ensure that noise reaching the receptor is no louder than 40 dBA. In some instances, if the ambient noise is very low (e.g., 30 dBA), companies may be required to mitigate noise to even lower levels (e.g., 35 dBA).

As ambient noise conditions increase, the allowable noise level increases. The highest allowable level in a residential neighborhood is 55 dBA at night. This noise level applies when there are more than 100 dwellings in a quarter-mile radius, and there is a major traffic source (road, rail, air) within 30 m (90 feet) of any of the dwellings.

**World Bank:** For onshore well sites, the recommended maximum noise level is 55 dBA (A) and 45 dBA (A) for day and night, respectively (measured at receptors or the edges of a property boundary, on an average hourly basis). These levels apply to residential, educational and institutional areas. Noise abatement measures should achieve either the levels state above or a maximum increase in background levels of 3 decibels (measured on the A scale) [i.e., dBA].

**Sacramento County, CA:** Sacramento County is a significant producer of oil and natural gas in California. In the county, the allowable noise level is 50 dBA L<sub>50</sub> (daytime) and 45 dBA L<sub>50</sub> (nighttime), measured at residential properties. This is according to the Noise Element of The 1993 County Of Sacramento General Plan.

**City of Longbeach, CA:** The allowable exterior noise level in many parts of the city is 45 dBA (nighttime) according to

the Longbeach city ordinance. Oil and gas operations must meet this standard, except during drilling and well servicing.

Examples of residential noise requirements of 45 dBA for oil and gas operations

	Measurement Location	Nighttime level (dBA)
World Bank - Oil and gas projects in residential areas	At residences or edge of property boundary	45
Alberta, Canada -		
low traffic noise, low density housing	15 metres from a dwelling receptor	40
med. traffic, med. density		45
high traffic, high density		50
Sacramento County, CA	At residential property line	45
City of Longbeach, CA	At residential property line	45
New Colorado Noise Rule	350 feet from noise source	45

45 dBA is achievable, even as close as 350 feet from the noise source

There are numerous examples that show that 40-45 dBA is achievable at 350 feet from the source. The City of Farmington, New Mexico uses "1 dBA over ambient" as a standard for all wells constructed in the city. In January of 2005, OGAP staff conducted sound measurements at well sites in the City of Farmington. Noise levels measured at 300 feet from the noise source varied from 39 to 49 dBA. It is estimated that if measurements had been taken at 350, these sound levels would have been in the range of 37 to 47 dBA. For more information please download the OGAP/OGCA submission to the COGCC.

It is not cost prohibitive to achieve 45 dBA at 350 feet from the noise source

As part of its submission to the Colorado Oil and Gas Conservation Commission noise rule hearing, OGAP prepared a chart of noise mitigation cost estimates for oil and gas facilities that have achieved the 40-45 dBA noise level.

Noise Mitigation Options

There are many proven ways of mitigating noise from oil and gas operations. One only has to look to regions that have fairly stringent noise regulations (e.g., Farmington New Mexico, Alberta, Canada) for excellent examples of noise mitigation. There are numerous acoustical or noise abatement companies that provide services to the oil and gas industry.

Noise from pumpjacks

A low-profile pumping unit can replace the conventional unit, which uses a 20- to 40-foot beam and looks like a giant, bobbing horse's head. This conventional pump is run on a gas- or diesel-powered engine, which is noisy and smelly. Attached to the large unit is a pneumatic pumping device that doesn't require an engine, therefore produces little or no noise. The pump stands about 10 to 12 feet tall. According to one company, operators pump oil out quickly and correctly if a lot of water is extracted while separating methane gas. Consequently, when larger amounts of water are produced, an alternative to the standard beam pump is the progressive cavity pump. These pumps come in different shapes and sizes, and like the pneumatic pump, they can run on electric motors, and therefore, be much quieter than conventional pumps.

Vehicle Noise

Noise created by operators constantly driving in and out from the well pad to its office well production can be mitigated using an automated monitoring system, which allows wells to be monitored remotely, e.g., from the company's office. Vehicle noise may also be abated to some extent by limiting the hours that industry employees use residential roads for access to wells (e.g., limiting vehicles to the hours of 7:00 a.m. to 2:00 p.m., except in emergency situations).

behaviour (e.g., aggression, infirmities, disengagement, non-participation); adverse changes in social indicators (e.g., residential mobility, hospital admissions, drug consumption, accident rates); and changes in mood (e.g., less happy, more depressed).

The World Health Organization also reports that "a large proportion of low-frequency components in noise may increase considerably the adverse effects on health." [5]

#### ☐ [Health effects of low frequency noise](#)

Unfortunately, many of the health effects of noise due to oil and gas operations have not been scientifically documented. The lack of science to study does not mean, however, that noise issues related to oil and gas are insignificant. The road, continuous noise during the drilling phase, the loud short-term noises from flaring or hydraulic fracturing; the intermittent whine of poorly maintained pump jacks and other equipment; and the loud or low frequency noise from compressors are common complaints related to oil and gas development. Numerous citizens have reported disruption of sleep and increased anxiety caused by noise from oil and gas developments. [10]

#### Noise and its Effects on Wildlife

Noise affects wildlife in a variety of different ways. It can cause the temporary or permanent displacement of animals and birds from particular areas. It can also have physiological effects that are detrimental to wildlife health.

The Draft Resource Management Plan for Leasing Federal Lands in southern New Mexico states that in some cases, federally threatened and endangered wildlife species may be affected by elevated noise levels. For example:

- ☐ High noise levels potentially can mask communications by wildlife that are used to attract mates and defend territories [11].
- ☐ Increased noise and activity levels during construction and development could result in [wild] nest abandonment and decreased reproductive success if such activity occurs during the breeding season [12].

In the final Environmental Impact Statement for the Jarama natural gas field, the BLM stated that:

*It is likely that noise already has contributed to the apparent decrease in wildlife use on and adjacent to the Jarama Drilling Project Area (JDPA), with observed decreases in raptor nesting activity and productivity, male greater sage-grouse lek attendance and sage-grouse nesting within the JDPA having been reported over the past several years. Data also suggest that noise may contribute to disturbance and/or departure of greater sage-grouse from area leks. [13]*

#### ENDNOTES

[1] Brouil and Kjaer, 2000. *Environmental Noise Handbook*, pp. 16-22.

[2] McGregor, H. (Engineering Dynamics), 1998. *Compressor Facility Noise Guidelines for Colorado Oil and Gas Commission*, p. 10, and Brouil and Kjaer, 2000, p. 20. See endnote [1].

[3] Casella-Stanger, 2001. *Low Frequency Noise*. (Technical research support for U.K. Department for Environment, Food and Rural Affairs Noise Programme), p. 4, and Brouil and Kjaer, 2000, pp. 18 and 19. See endnote [1].

[4] La Plata County (Colorado), 2002. *La Plata County Impact Report*, pp. 3-58.

[5] Bureau of Land Management, Oct. 2000. *Draft RMP/EIS for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties*, Page 4-29.

[6] McGregor, H.N. (Engineering Dynamics, Inc., Englewood, CO). *Propagation of Noise from Gas Compression Facilities Located in Mountainous Terrain*. (COGCC Noise Stakeholder Meeting Handout.)

[7] Martin, A., 1999. University of Western Australia, School of Architecture and Fine Arts. Cited in: *Eqo of Huqfahle Citizens Alliance*. [Here](#).

#### Engine noise

To mitigate noise impacts from engines, sound barriers made of steel and sound-absorbing insulation (i.e., NOT styrofoam) may be used. Sound barriers may be placed in an L-shape above the engine, and they extend past the sides of the engine. To reduce noise in sensitive areas, pumpjacks, engines, or well-site or field compressors may be entirely enclosed in a sound-insulated building.

Some engines can operate at a constant number of revolutions per minute (RPM), which reduces the often annoying fluctuating noise caused by engines that speed up and slow down. Mufflers like those used for automobile engines, can be used to minimize engine noise. In noise sensitive situations, hospital-grade mufflers used in series can be more effective at reducing noise from engines.

In some situations, natural gas or diesel engines can be replaced with electric motors. These motors, if properly installed, tend to be much less noisy than their engine counterparts. The use of electrical motors depends on the availability of electricity, and whether or not a company is willing to run an electrical line to the site.

#### Compressor noise

Noise from compressors can be mitigated most effectively by treating each significant noise source: gas turbines or engines, compressors, exhaust outlets and air inlets, and cooling and ventilation fans. Mitigation may involve changing the blades on fans, which can change the frequency of sound emitted, thereby reducing the annoying tones. Engine noise can be muffled using automobile-type mufflers, or by housing the engines in acoustically insulated structures. Also, the entire compressor can be housed in an acoustically insulated building.

#### Cost of Mitigation

Some oil and gas operations refuse to apply noise mitigation to their sites, using the excuse that mitigation is too expensive. If noise mitigation measures are installed when the site is abandoned, rather than attempting to abate the noise after the equipment is installed, the costs are much more affordable. COGAC has provided [some examples of the costs of mitigation](#).

#### Examples of companies providing noise mitigation services to oil and gas industry:

- ☐ [ATCO Noise Management](#)
- ☐ [Acoustical Control, Inc.](#)
- ☐ [Hydra Noise Control](#)
- ☐ [Noise Solutions, Inc.](#)
- ☐ If you would like to have your company added to this list, please contact [COGAC](#) ([Email](#)) or [Phone](#).

#### Noise and its Effects on Human Health

There are adverse physical and mental effects from noise. For example, prolonged periods of exposure to 85 dBA can cause mental and bodily fatigue. Furthermore, noise can affect the quality and quality of sleep, cause permanent hearing damage, contribute to the development or aggravation of heart and circulatory diseases, and transform a person's initial annoyance into more adverse emotional responses and behavior. [7]

According to the World Health Organization, [8] noise annoyance is a global phenomenon. A definition of annoyance is "a feeling of displeasure associated with any agent or condition known or believed by an individual or group to adversely affect them."

... apart from 'annoyance', people may feel a variety of negative emotions when exposed to unwanted noise, and may report anger, disappointment, dissatisfaction, withdrawal, helplessness, depression, anxiety, distraction, agitation, or exhaustion.

... Social and behavioral effects include changes in most everyday behaviour patterns (e.g. closing windows, not using balconies, turning TV and radio to louder levels, writing petitions, complaining to authorities); adverse changes in social



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### SOUND AND NOISE POLLUTION

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17

- Silence and Noise. *World Forum for Acoustic Ecology*  
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50

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July 3, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

Re: Downeast LNG DEIS (Docket Numbers CP07-52-000, CP07-53-000, and CP07-53-001)

Dear Ms. Bose:

*Comment: Downeast LNG EIS provides insufficient data, analyses, and review for marine mammals and other sensitive species in the Quoddy Ecosystem; Docket Nos. CP07-52-000, CP07-53-000, CP07-53-001*

As stated in a previous submission, professional organizations in both public and private sectors in Canada, the United States and elsewhere are moving to a new vision for environmental assessments presently termed **ecosystem management**: an approach that is being adopted by most, if not all, of FERC's cooperating agencies (NOAA, NMFS, USEPA, Gulf of Maine Council on the Marine Environment and their equivalents in Canada: Environment Canada, Parks Canada, Natural Resources Canada, and Fisheries and Oceans Canada). Under this approach, all of the integrated environmental components in an area, including human influences, are considered together as a whole and the relationships form an important part of the assessment.

The Quoddy Region is well-known as a distinct ecosystem that encompasses St. Croix Estuary, Passamaquoddy Bay, Western Passage, Cobscook Bay, Head Harbour Passage, West Isles, Grand Manan Channel, Owen Basin, and offshore areas reaching to Point Lepreau and Grand Manan (Buzeta, et al, 2003) as shown in Figure 1. As can be seen from this aerial view, most of the ecosystem lies within Canada, although the Passamaquoddy Bay shore and Cobscook Bay form an integral and important part of this system. The shipping lanes into and out of Saint John Port are shown in the background. This clearly illustrates the considerable difference between a well-established, straight-in, commercial service route and the convoluted route into the proposed terminal at Robbinston, Maine.

While I have a number of comments and criticisms to make about the DeLNG EIS as it relates to marine mammals and whales in particular, I was pleased to see that the EIS takes note of and recognizes the threat to listed endangered species and moreover recognizes the tight confines that exist in the Head Harbour to Passamaquoddy Bay portion of their proposed tanker route. The EIS correctly identified the conflicts that will arise. However, it is not sufficient to simply state that "their operation is not likely to jeopardize the continued existence of marine mammals." The proximity to endangered species that are protected under law in both Canada and the United States makes this a questionable venture. Breach of law becomes inevitable under these circumstances and, if, as we are all fond of saying, we believe in the *rule of law*, it makes no sense to test the obvious with an inappropriate sighting of a facility that could easily be placed elsewhere and out of harms way.

Like you, I am aware of the splendid efforts that are being made to avoid contact with right whales that

20090706-5002 FERC PDF (Unofficial) 7/6/2009 9:47:21 AM

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cluster around the shipping lanes into Boston and the Bay of Fundy. But, Head Harbour Passage is quite different. This is a narrow, pipe-like, passage that is full of whales, seals, fish, plankton and people and into which we will be inserting a huge ship the size of the QE2. Trust me, the passage at Green Island Shoal off Casco Island will barely accommodate an LNG tanker at low slack water. One minor little twist or turn in these turbulent waters and we will all be faced with an interesting problem.

During the Pittston oil refinery hearings, it was, in fact, the whales that led governments in the United States to turn down that proposal together, of course, with Canada's scientific risk analysis on Head Harbour Passage and their firm position that still exists today. We are not being stubborn. We know what a special gift this place is and we know what we stand to lose!



Figure 1. The primary elements of the "Quoddy Ecosystem" showing the proposed traffic route from the Fundy shipping lane to St. Croix Estuary and indicating the various proposals for LNG terminal development that have been considered or have made application to FERC. An alternate tanker route has been proposed through the Grand Manan Channel.

If we agree that ecosystem management is the way to proceed, there can be no excuse whatsoever for the EIS not properly covering all of the Quoddy Ecosystem on both sides of the border, since hundreds, if not thousands, of publications have been written that describe virtually all aspects of the importance of this unique area to marine mammals, birds and other species.

IND20-1

Further, with its enormous twice-daily tides, the Quoddy Ecosystem is a dynamic and constantly shifting environment that is difficult to analyze in a short single-year field season. This place requires the experience of years to even begin to understand how it works and what the inter-relationships and inter-dependencies are. As a result, in my 45 years as a biologist working here, I have rarely reviewed a satisfactory report from an external consultant. Invariably, without local expertise, these reports are simplistic in the extreme and frequently miss the important and salient components of this unique place.

IND20-1 See response to Comment IND18-4.

Unfortunately, within the context of ecosystem management, this EIS falls woefully short of providing the information for the Quoddy Ecosystem that is required to make a professional decision based on scientific fact, rather than emotional positioning by proponents and opponents.

#### Shortcomings of the Study

Head Harbour Passage, Friars Roads, Western Passage, Passamaquoddy Bay, and St. Croix River Estuary are contiguous and form critical and unique habitat for substantial populations of marine mammals, some of which are either endangered or on lists of concern in one or all of the jurisdictions that cover the Quoddy Ecosystem (Government of the United States of America, Government of Canada, the Province of New Brunswick, and the State of Maine.)

While the U.S. Coast Guard LOR and Waterway Suitability Report provided in the Appendix of the EIS, properly characterizes many of the components of the Quoddy Ecosystem within the waterway, the EIS itself does not and we believe that the following issues need to be addressed within the context of ecosystem management:

1. **General - The writing style is frequently misleading.** While it is true that us scientists don't often wish to make definitive statements, the manner of presentation in some parts of *Section 4.5.2 Aquatic Resources, 4.5.2.1 Waterway for LNG Marine Traffic – Marine Mammals*, could be considered misleading. For example, it states that several species of marine mammals "have the potential" to occur along the proposed tanker route, when, in reality, several species are actually common and abundant residents while others are common and abundant seasonal residents. And, "Life history and published accounts of population distribution were used to identify five species that are common within the territorial seas that would be transited by LNG vessels..." The five species cited were gray seal, harbour seal, harbour porpoise, white-sided dolphin, and minke whale. No mention is made about populations of finback whale, humpback whale, or north Atlantic right whale, all of which are common to abundant in the waters leading from Grand Manan Channel and Head Harbour Passage to the Fundy shipping lanes. Further, some species (finbacks, minke whales, seals and harbour porpoise) are abundant and **dependent** upon Head Harbour Passage and Friars Roads; while seals and harbour porpoise are abundant from there to Western Passage, and through Passamaquoddy Bay, past the proposed terminal site, to Bayside in the St. Croix River Estuary.
2. **General – References.** A review of the references shows many important publications have not been reviewed.
3. **General - Data are lacking.** Any study using the proposed shipping route to Robbinston needs a detailed study of these areas rather than the cursory literature review that has been provided. In fact the species descriptions are often incomplete and so locally focused on the proposed terminal site that they do not truly reflect the ecosystem as a whole and can be misleading as well. Also, there are errors here and there. Cottontail rabbits, for example, really don't occur up this way unless there has been some spectacular incursion that I missed! Liaison with some local experts might have been valuable.

Improving this presentation would not be a difficult task since there are numerous important publications available that do provide specific and focused local information about the biotic components of the Quoddy Ecosystem. Additionally, an interested community has been engaged and

IND20-2 If our resources and survey data indicate that certain species are likely to occur in the project area, either because there is suitable habitat or because a particular species has been previously observed in the area, we use such words as "potential" and "common" in our analysis. Section 4.6 of the EIS discusses the six federally threatened or endangered species of whale, including North Atlantic right, fin, humpback, sei, blue, and sperm, that are known to or potentially occur within the project area. Section 4.5 of the EIS discusses five other species of marine mammal that are likely to occur in the project area, including minke whale, gray seal, harbor seal, harbor porpoise, and white-sided dolphin, all of which are protected by the Marine Mammal Protection Act (MMPA).

Publications were reviewed as appropriate to complete the analysis included in the EIS. This comment does not identify specific additional publications that could be reviewed.

IND20-3 See response to Comment PM1-6, NA4-25, and IND20-1.



20090709-5002 FERC PDF (Unofficial) 7/4/2009 9:47:21 AM

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data are currently being collected by the author and mapped to show the present and historical distribution of marine mammals, birds, fish, and invertebrates in the Quoddy Region. These will not be ready for submission to FERC at this time. However, sufficient data have been collected to show that Head Harbour Passage, Friars Roads, Western Passage and Passamaquoddy Bay are vitally important to marine mammals and, not incidentally, the local tourism industry. Figure 2 shows these preliminary and incomplete data in map form from a handful of dedicated observers. Data are being added weekly and FERC officials can check the details of contributors as well as photographic and verbal backup at <http://ilovequoddywild.blogspot.com/>. When combined with information on important planktonic species, forage fish, and marine birds, it becomes abundantly clear just how important this area is. New information is currently being prepared for a variety of "keystone" species such as krill, copepods, other plankton, marine birds, fish, seals, and other important species.

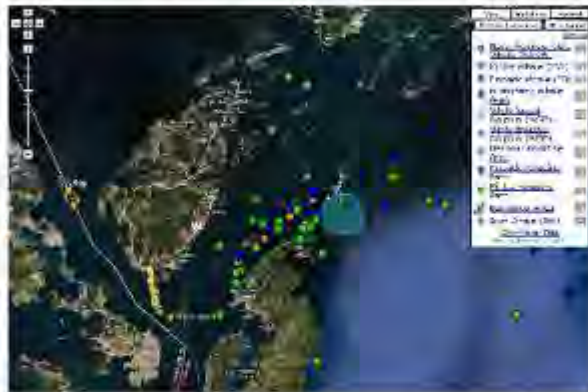
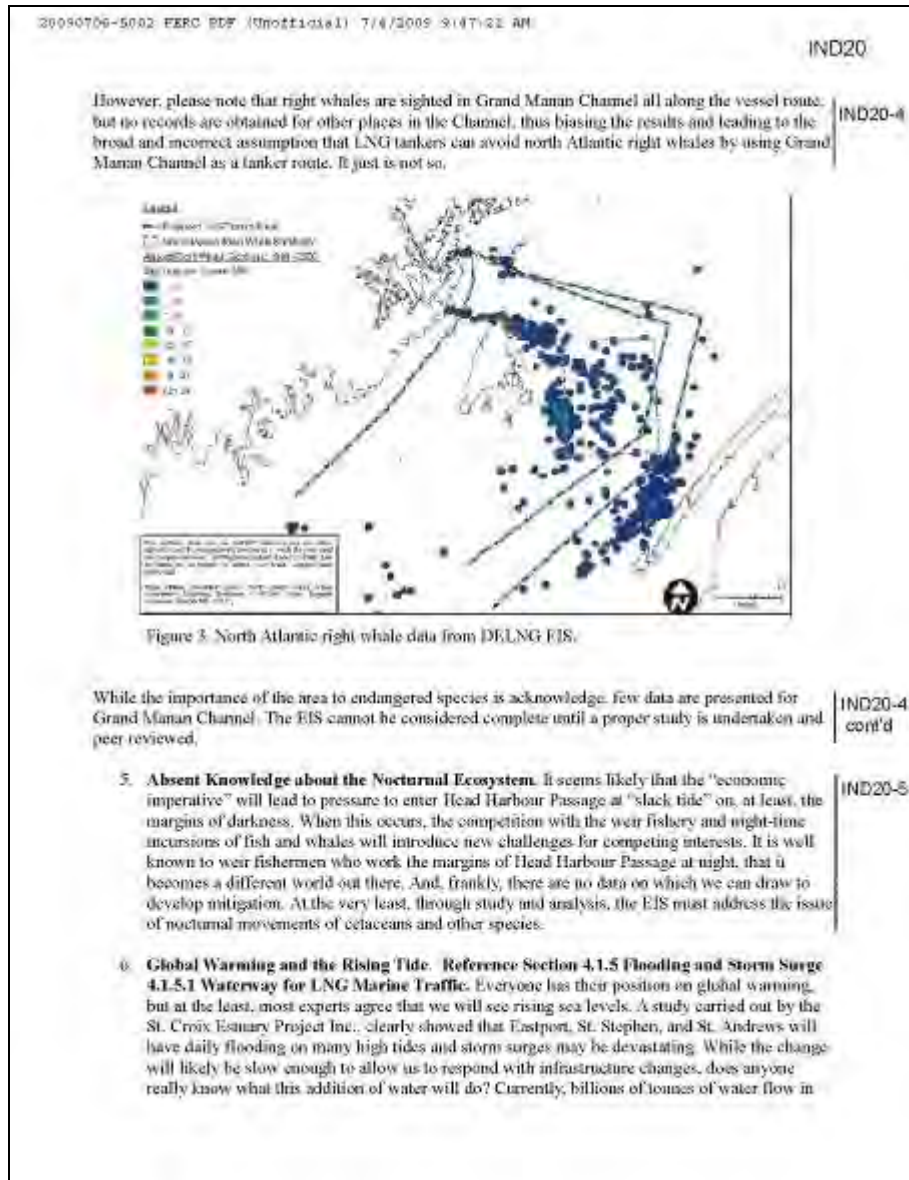


Figure 2. Preliminary records for cetaceans at West Isles, 2009. Some 2008 data are included but are incomplete.

4. **The absence of evidence is not evidence of absence.** Data interpreted by DELNG consultants from the whale consortium database and elsewhere are misleading because the highly publicized north Atlantic right whale tends to drive most contemporary data collection and great attention is given to the areas where this species is most likely to occur, while data for other localities and for other species is incomplete because of this focus. This is clearly illustrated in Figure 3 taken from the EIS Appendix. It shows the sightings cluster along the path used to travel from Lubec, Maine to Grand Manan Basin to observe whale activity there. While this right whale work accomplishes important results, many near-shore sightings in and around Grand Manan Channel and the vicinity of Head Harbour Passage such as the right whale sightings at Head Harbour and Deadman's Harbour in the fall a few years ago, are missing simply because the research vessel does not go there or the reporting system is not broad enough or the researchers go home in September.



IND20-4 We agree that the absence of evidence is not evidence of absence. However, as the commenter has noted, contemporary data collection for the presence of North Atlantic right whales has been focused on areas where this species is most likely to occur. The EIS has not presented misleading information on current sightings. We indicate in the EIS that the right whale could occur in the areas in question. We state in the EIS that interactions with this species would be minimized by using Grand Manan Channel for vessel transit, as it avoids areas that are known to have a higher abundance of right whales, such as the Grand Manan Basin Whale Sanctuary. In this case, the most up-to-date available resources were consulted. The EIS meets the criteria outlined by the CEQ in its regulations (40 CFR 1500-1508) for implementing NEPA. Please refer to section 4.6.6.1 of the EIS, which further describes the current status of the North Atlantic right whale.

IND20-5 The Coast Guard's WSR requires that Downeast develop for Coast Guard approval standard operating parameters that take into account safe operating factors and environmental constraints. One safety restriction to be included is that loaded or partially loaded LNG carriers only transit the waterway during daylight hours with a minimum of two miles of visibility.

20090709-5002 FERC PDF (Unofficial) 7/4/2009 9:47:22 AM

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and out of the Bay of Fundy twice daily. What will an extra half meter or meter of water do in Head Harbour Passage which is already considered the most dangerous on Canada's east coast. What will all of this water do to the upwellings, currents, and rips? Modelling needs to be done and the future impacts must be carefully considered if we intend to bring supertankers in through this already dangerous passage.

IND20-6

7. **Cumulative Impacts from Tidal Energy.** Should turbines be installed in Head Harbour Passage, Western Passage or elsewhere along the proposed tanker route, what plans exist to compromise or mitigate this potential conflict. This needs to be addressed in the EIS. Should a compromise for coexistence be obtained, these two interests must mitigate, together, impacts on whales, birds, fish, and invertebrate species, particularly forage species.

IND20-7

8. **Mitigation.** The proposed mitigation in the EIS is relatively standard – adjust vessel speed, post lookouts, maintain communications with Fundy Traffic, etc. These are laudable moves. However, as Figure 4 shows, even protected finbacks in the Bay of Fundy are in danger from the increasing numbers of ships. The USCG LOR clearly shows that DELNG tanker runs will, together with other new and proposed developments, result in a substantial increase in vessel traffic and risk.




Figure 4. A finback whale killed on the bow of a ship that entered Saint John Harbour.

9. **Significant Marine and Coastal Areas.** The productivity of Head Harbour Passage, West Isles, and Cobscook Bay is not an accident. In fact the unique topographic and oceanographic features of the area create the phenomenon that results in the elevated productivity of the Quoddy Ecosystem and the designation, by some, of Head Harbour Passage as "the engine" that drives the Bay of Fundy and northern Gulf of Maine. Both the USCG LOR and the Downeast LNG EIS fail to adequately describe or characterize the unique aspects of the Head Harbour Passage area in terms of significant areas. FERC is directed to: Bazeta, M-L, R. Singh, and S. Young-Lai *Identification of Significant Marine and Coastal Areas in the Bay of Fundy*. Can. Manu. Rpt.

IND20-8

IND20-6 A Ports and Waterways Safety Assessment (PAWSA) of the waterway was conducted in October 2006 to identify waterway safety hazards, estimate risk levels, and evaluate potential measures to reduce risk. The results of the PAWSA and LNG carrier simulation tests performed in July 2006 were used by the Coast Guard in its assessment of the suitability of the waterway over the expected life span of the project. If the Project is approved, Downeast would update and the Coast Guard would review the Waterway Suitability Assessment annually for the life of the Project. Any change in water level in the transit route would be evaluated as part of that annual review. The Coast Guard determined that the waterway is suitable for the type and frequency of marine traffic associated with the Downeast LNG Project as long as the risk mitigation measures outlined in the Waterway Suitability Report are fully implemented.

IND20-7 Section 4.13 of the EIS addresses the cumulative impacts of the Downeast LNG Project in combination with tidal energy projects proposed in the project area.

IND20-8 See response to Comment IND20-1. We believe the existing environment is described in sufficient detail in the Downeast EIS and its associated appendices.



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Fish. Aqua. Sci. 2635, 2003 for detailed descriptions of significant areas in the Bay of Fundy.

- (1) **Endangered Marine Mammals.** The EIS recognizes the potential impacts to endangered marine mammals and other species as follows: *The proposed Downeast LNG Project has the potential to adversely affect the leatherback sea turtle and each of the six whale species identified within the project area, either by acoustic take or whale-vessel (or turtle-vessel) strikes. Federally designated critical habitat does not occur within the proposed project area, and thus would not be affected by the proposed action. The full extent to which long-term low-level anthropogenic sound impacts marine mammals and sea turtles is not well understood. However, short-term impacts during construction, especially the noise created during pile driving, involves sound pressure levels that are high enough to impair hearing systems of marine mammals and disrupt the behavior of marine mammals and sea turtles at considerable distances. The density of whales and leatherback sea turtles in the proposed transit route, combined with the proposed increase in vessel traffic resulting from delivery of LNG to Rebinston, Maine, increases the potential for vessel-whale encounters to occur. Any injury or fatality that results from a whale-vessel (or turtle-vessel) encounter would be an adverse effect.*

*To mitigate for this adverse effect, LNG vessels would adhere to NOAA Fisheries regulations to reduce the threat of vessel strikes. Based on the mitigative measures that Downeast has proposed for the North Atlantic right whale, which would affect to mitigate impacts on the leatherback sea turtle, we believe that construction and operation of the proposed Downeast LNG Project may affect, but is not likely to adversely affect, leatherback sea turtles, blue whale, and sperm whale. Given the frequency of species observations, the increased vessel traffic in the waterway for LNG marine traffic, and the likelihood of causing Level B acoustic harassment, we believe that construction and operation of the proposed project is likely to adversely affect, but is not likely to jeopardize the continued existence of marine mammals including the North Atlantic right whale, fin whale, humpback whale, and sei whale.*

While there have been incidental sightings in the local vessel transit route, the leatherback turtle occurs only incidentally in this area. It does not occur with the frequency and density of the whales (see: Michael C. James, Scott A. Sherrill-Mix, Kathleen Martin, Raymond A. Myers - *Canadian waters provide critical foraging habitat for leatherback sea turtles*, [http://www.fishap.ca/ramweb/papers-total/James\\_etal\\_2006\\_BiolCons.pdf](http://www.fishap.ca/ramweb/papers-total/James_etal_2006_BiolCons.pdf)) and requires a totally different avoidance approach than whales. It should not be included in this statement or, at least, not in the context used.



Unfortunately, while the EIS grudgingly recognizes the listed whale species, it does not recognize our beautiful and important little harbour porpoise which is listed as a species of "special concern" and is protected under Canada's Species at Risk Act (SARA). Nowhere does it mention that the mouth of Head Harbour Passage, where all of the tanker and tug activity would take place, is the known and principal nursery for *Phocaena phocaena*; the place where the most mother-calf groupings have been recorded. From an ecosystem management perspective this species MUST be considered as a species protected by law.

This is probably the most telling section in the entire EIS. As I stated at the outset, the admission of

IND20-9 According to our resources, the Gulf of Maine is classified as an important feeding area for the endangered leatherback sea turtles. Leatherback sea turtles are expected to be present in feeding areas and surrounding habitat, including Passamaquoddy Bay and the Bay of Fundy during the summer and fall (typically June through October). Therefore, we have included the leatherback in the Downeast EIS. We believe that the mitigation measures proposed by Downeast would reduce the potential for turtle-vessel encounters.

IND20-10 Section 4.5 of the EIS discusses five species of marine mammal that are likely to occur in the project area, including minke whale, gray seal, harbor seal, harbor porpoise, and white-sided dolphin.

20090709-5002 FERC BDF (Unofficial) 7/4/2009 3:07:21 AM

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potential conflict with legally protected species mitigates against approval of this project.

Sincerely yours,

Arthur A. MacKay, B.Sc.  
Biologist.

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ORIGINAL

IND21

July 2, 2009

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., NE, Room 1A  
Washington, DC 20426

RE: Docket CP07-52-000, CP07-53-000 and CP07-53-001

Dear Ms. Bose,

My name is Mike Footer and I have been a resident of Robbinston for nearly thirty years. I have been involved with the project by Downeast LNG since it started. My wife Cathy works full time for Downeast LNG. I have always been a proponent of the process for review of this project because many people see this as a good check and balance to the pros and cons of the project. No one is thinking that a project such as this proposal is without change or impact to the area. There are some who do not see any chance of this project having attributes that can be sufficiently addressed to minimize impact and then there are others who do see the ability for a project to coexist with the area.

Although I am for the project and feel that I have involved myself sufficiently to understand the subject well enough to indeed have formulated my opinion, I do understand the concern by some for the project. However, what is frustrating to the process is to see the different avenues brought forth by those challenging the project beyond reasonableness and what that does to the process timeline. I won't make an issue of the process but certainly some do not see an issue with wasting time by creating the next challenge to an already established process with criteria.

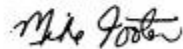
This project if and when it clears the regulatory process still must pass before an economics review by investors before going forward. The aspect of good paying benefit jobs is a great attraction to many. I have not seen any evidence to date where someone could show others that this project could be detrimental to existing incomes. I specifically reference the lobster harvesting in the area. Many people have come forward to protest and implicate this as an impact but common sense would appear best used.

As far as the safety aspect this item of true concern seems to have finally been reduced to common sense. It is too highly a regulated industry to be able to just wander away from safety controls.

Much has already been said about this project through other comment periods so I will be brief. As I have felt now for many months I still offer the question as to what is it about this project that can not be reasonably adjusted regarding any real concern for safety or the environment. The waterway suitability study came back with what appears to be requirements that address concerns that stem from common sense. I would hope that as the process continues that the remaining review processes simply stay the course of common sense and continue to move forward without unreasonable delay to reach the best conclusion.

IND21-1

Mike Footer



Resident of Robbinston

IND21-1 Comment noted.



## IND22 Dale Mitchell

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20090611-5132 FERC PDF (Unofficial) 6/10/2009 8:31:06 PM

IND22

I am a lobster fisherman from Deer Island New Brunswick. We are currently fishing 6 days a week, 12 hours per day, as well as getting bait in the evenings, until the end of June. I am very concerned about the LNG Proposal for Passamaquoddy Bay and have about 100 pages of the FERC report spread out on my living room floor. I was hoping to get through them and have time to make detailed notes prior to the deadline but due to the large number of errors and omissions that I am already noting, I simply do not have time to get this feedback prepared before the end of my lobster season (June 29).

I will work on it as I'm able and urge you to grant an extension so that I, and others who should also be included in this process, have ample time to give this report the attention it requires.

IND22-1

Please let me know what decision is made concerning an extension.

Dale Mitchell (loism@nbnet.nb.ca)

IND22-1 Comment noted. We have continued to accept comments on the draft EIS beyond the originally scheduled deadline.

20090619-5133 FERC PDF (Unofficial) 6/19/2009 8:48:38 AM

IND23

6/17/2009  
Arthur A. MacKay  
5474 Rte 127  
Boscawen, NB  
Canada  
E5B 3J4

Kimberly D. Bose, Secretary

Re: docket CP07-52, this comment is sent in support of the request to motion for an expanded public comment period on behalf of Nuliankeyetomonen Nihitahkamikumon, Save Passamaquoddy Bay & Canada, and SPB & USA.

I contend that the Downeast LNG EIS is incomplete and lacks critical information. The extension will allow time to compile and submit new data and analyses without which FERC does not have the foundational information needed to make a rational decision and judgement.

IND23-1

My name is Arthur MacKay. I am a biologist and have worked professionally in the Gulf of Maine area since 1981. I have been the principal investigator for numerous studies, including a detail resource inventory for the entire coast of the NB side of the Bay of Fundy and the adjacent Maine shore; the area currently in question. My resume is extensive and can be reviewed at: <http://www.bayoffundy.ca/ArtResume.pdf>. I am not a member of Save Passamaquoddy Bay & Canada, nor a member of their Board of Directors and all submissions made by me are as a private citizen.

I have been involved in preparing and contributing to many environmental assessments including the Point Lepreau Nuclear Power Plant, the Coleson Cove Generating Station, the proposed Pittston Refinery at Moose Island, the Q&M Pipeline proposed Sable gas pipeline route, and many aquaculture applications in Maine and New Brunswick. My clients have included provincial and state governments, federal governments in Canada and the United States, and individuals and private organizations in these countries as well as abroad. The scope of my work has included alternate energy, aquaculture, fisheries development, community development, and marine assessments including invertebrates, fishes, birds, marine mammals and plants. Currently, I am retired but actively involved in several research projects. I also maintain several websites including [www.bayoffundy.ca](http://www.bayoffundy.ca), [lovequoddywild.blogspot.com](http://lovequoddywild.blogspot.com), and [fundywhale.blogspot.com](http://fundywhale.blogspot.com).

I recognize that Downeast LNG has spent many months and substantial monies preparing their Draft EIS. I have reviewed this document and find, among other things, that it is lacking in many areas including:

IND23-2

an understanding of the basic operation of the Quoddy Ecosystem, its components and interactions, the constituent species that occur in the Region and their importance to the ecosystem and the resource industries that draw upon them, the local benthic nutrient pump that is so vital to the Northern Gulf of Maine, the occurrence of important plankton, the true impacts that industrial water use will have on vital biota, and the socio-economic impacts of this development on the existing resource-based industries.

Firstly, the scope of the document does not follow currently acceptable ecosystem focus now promoted by both American and Canadian professionals including the Gulf of Maine Council. In some cases, the status of a plant, animal, or social element is underestimated because the study focus is restricted to the immediate area surrounding the proposed development. In other instances, it appears that the references are so broad that they do not apply well to the reality of this region. The QuoddyCobscook Region is widely recognized as a vital ecosystem that is known to have the highest biodiversity of any area of similar size on the entire Canadian coast and is home to approximately 3,000 marine species as well as many listed and endangered species. It is unique as outlined in the online slideshow at:

IND23-3

IND23-1 See response to Motion NA1-1 regarding the comment period. We disagree that the Downeast EIS is incomplete and lacks critical information. The Downeast EIS is a disclosure document that identifies environmental impacts in accordance with the CEQ regulations for implementing the NEPA (40 CFR 1502.13). While the vast majority of impacts have been identified, and mitigation measures described, some additional studies and plans may be required to address site-specific circumstances. The EIS discloses what information may be lacking, how we would account for potential project impacts on specific resources in those situations, and general plans or conceptual measures that would be finalized to mitigate impacts. We have recommended conditions that ensure that all mitigation measures are implemented, necessary permits are obtained, and all statutory or regulatory requirements are met.

IND23-2 The EIS for the Downeast LNG Project was prepared by FERC and its contractor, Tetra Tech. See response to Comment IND23-1. Sections 4.1 through 4.11 of the EIS address the environmental and socioeconomic impacts of the proposed project.

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IND23

<http://www.bayoffundy.ca/LNG/slideshow>.

However, there is no dotted line or border - the ecosystem occurs in our two countries with over 3/4 of the productive environment occurring in Canada, creating the apparent disparity that motivates Maine-shore support of this and other local LNG proposals, unfortunately while ignoring the well-developed eco-economy in Canada.

It is my considered opinion that the consultants were not familiar with the area in question and, moreover, that they relied on selected and questionable sources for much of their information; particularly endangered and listed species, fisheries activities throughout the ecosystem, plankton distribution and impacts of waters used for various activities, etc. But particularly, there is a lack of credible information on the vital planktonic resources, marine fishes, marine birds, and marine mammals of this area, the species composition, distribution and potential impacts relative to proposed tanker and tug activities, as well as impacts from construction and operational activities and designated significant places. We are attempting to provide professional information on this topic for FERC in response to the EIA, but it is proving difficult within the available time frame.

The absence of important whale records from Head Harbour Passage, West Isles, and the adjacent areas where LNG traffic will pass, is a glaring omission. Since the announcement of the EIA, we have been scrambling to gather together data on marine mammal occurrences through recent years to the present. This was part of our activities in any event, but the time frame allowed is just not adequate to properly assemble a professional document. We are attempting to provide professional information on this topic for FERC in response to the EIA, but it is proving difficult within the available time frame.

It is my sincere wish to provide FERC with the detailed and supportable data and information that it will require to make a proper and professional judgement of the Downeast LNG EIA. What can be gathered will be sent within the existing time frame, but I believe that FERC wishes the best and most professional documentation available and I respectfully request that you consider the motion for extension of the date for submission so that such information can be made available to you.

Respectfully submitted

Arthur

IND23-3  
cont'd

IND23-3 See response to comment IND18-4. The best available resources were consulted during the EIS process. Sections 4.1 through 4.11 of the EIS discuss the existing environment in the region and disclose potential impacts associated with construction and operation of the project. Our analysis of the waterway for LNG marine traffic extends out to the U.S. Economic Exclusion Zone, and in areas that border Canada, our analysis considered potential impacts within the Sandia Zones of Concern regardless of the international borderline. We believe that our current analysis of impacts and mitigations to those impacts meets the requirements of the CEQ regulations for implementing the NEPA.

20090908-5013 FERC PDF (Unofficial) 9/8/2009 8:37:24 AM

IND24

**RADM BRIAN W. FLYNN, Ed.D.**  
 ASSISTANT SUROEON GENERAL (USPHS, RET.)  
 P. O. Box 1205  
 SEVERNA PARK, MARYLAND 21146  
 410-353-4760

September 8, 2009

Kimberly D Bose, Secretary  
 Federal Energy Regulatory Commission  
 888 First Street, NE, Room 1A  
 Washington, DC 20426

Ref: Downeast LNG DEIS (Docket Numbers CP07-52-000, CP07-53-000, and CP07-53-001)

Dear Ms. Bose:

I am writing to emphasize the adverse impact of the Proposed Downeast LNG import facility in the Passamaquoddy Bay region on both wildlife and human activity. Specifically, I would like to comment on the unacceptable risk to whales and the disruption of other commercial and recreational use of the waterways involved, especially Head Harbour Passage. Perhaps photographs make the case most powerfully.

The transit of LNG ship through Head Harbor Passage presents an unacceptable risk to the well being of several whale species (Fin, Humpback, Minke, and Right). I know of no way to mitigate this risk. I have personally observed the following in the past week:

- Whales are in Head Harbor passage nearly constantly.
- They transit this Passage 24 hours a day throughout the tide cycle.
- They frequently travel in pairs or in threes.
- They appear without warning.
- They change direction in often unpredictable fashion as they follow food.
- They typically do not alter course to avoid boat traffic.

*All photos included in this letter were taken by me inside Head Harbour Passage within two miles of East Quoddy (Head Harbour) Lightstation.*

The two photos below were taken on August 31, 2009. My boat was stopped in the water as a Humpback whale approached the boat and came within six feet of the starboard side.



20090908-5013 FERC PDF (Unofficial) 9/8/2009 8:37:24 AM

IND24

2

The following photo was also taken on August 31, 2009 demonstrating the presence of whale pairs...



Photo below was taken on September 1, 2009...



The following documents the presence of Humpback whales in this location. These whales seem especially unafraid of boat traffic in close proximity.

Photo taken September 1, 2009...



20090908-5013 FERC PDF (Unofficial) 9/8/2009 8:37:24 AM

IND24

3

Photos taken August 31, 2009...



20090908-5013 FERC PDF (Unofficial) 9/8/2009 8:37:24 AM

IND24

4

In addition, I would like to note the presence of many boats (both commercial and recreational) that are in Head Harbour Passage for the purposes of viewing the whales...



Kayak photo taken September 6, 2009...





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IND24

Birds (bird photos taken September 1, 2009)...



20090908-5013 FERC PDF (Unofficial) 9/8/2009 8:37:24 AM

6

IND24

Seals (photo taken September 3, 2009)...



Harbor Porpoise (photo taken August 8, 2009)...





**IND24 Brian W. Flynn, Ed.D.**

IND24-1 Our EIS acknowledges that impacts on marine mammals, including protected whales, and birds may occur during construction and operation of the terminal. As required by section 7 of the ESA, we described our analysis of effects and mitigations for federally protected whales in our BA, which was appended to our draft EIS and provided to the FWS and NOAA Fisheries for their review and comment. The BA was revised and resubmitted to the FWS and NOAA Fisheries in June 2012, and is included in Appendix C of this final EIS. The FWS and NOAA Fisheries will prepare their BOs, determining whether or not the federal actions associated with this project would likely jeopardize the continued existence of a listed species, or result in the destruction or adverse modification of designated critical habitat. The FERC would not allow construction to proceed until after we have concluded formal consultation with the FWS and NOAA Fisheries.

Proof of Concept simulations determined that vessels transiting between East Quoddy Head and Mill Cove would transit at speeds between 5.7 and 6.8 knots, with a maximum speed of 10 knots. Speeds of 10 knots or less have been documented to result in a reduced risk of vessel strike to whales. This mitigation is considered an effective strategy by the NOAA Fisheries. In its October 2009 data response (accession number 20091006-5086), Downeast describes various measures that would be implemented to reduce the risk of vessel strikes, including voluntary compliance with the NOAA Dynamic Management Area program as well as the International Maritime Organization (IMO)'s Areas to be Avoided in the Great South Channel and Roseway Basin. The use of local harbor pilots also would help reduce impacts to aquatic species. One of the safety measures recommended in the Coast Guard's LOR is mandatory use of local harbor pilots who have specific regional knowledge of the waterway for LNG marine traffic. Local harbor pilots took part in the proof of concept simulation testing used to assess many challenging and varied scenarios in which LNG vessels might encounter along the waterway; each run was completed successfully.


We disagree that eco-tourism and recreational boating would be "seriously disrupted and compromised by LNG traffic." The Ports and Waterways Safety Assessment Report, Passamaquoddy Bay, ME in Appendix B of the WSR acknowledges that there has been an increase in whale watching and recreational boating in the area. However, the proposed LNG vessel transit route is virtually the same route as currently used by all deep-draft vessels servicing the Passamaquoddy Bay port area. Commercial marine activities and the tourism industry have co-existed in the area for many years. Impacts on waterway users, such as delays and route alterations, would be mitigated with advanced vessel scheduling and notifications.

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7

IND24

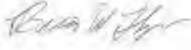
And other landmarks and animals...



IND24-1

In summary, I hope that these photographs have demonstrated that there is wildlife (especially whales) that would be put in serious jeopardy by the transit of LNG tankers, accompanying large tugboats, and high-speed security vessels. In addition, the area is a commercial eco-tourism and recreational area that would be seriously disrupted and compromised by LNG traffic, its dangers, and its accompanying security requirements. Industrial LNG development of this special area risks irreparable damage to life in and surrounding these waters.

Sincerely,



Brian W. Flynn, Ed.D.

20090910-0004 FERC STP (Unofficial) 9/17/2009 1:12:08 PM

IND25

Arthur A. MacKay  
5474 Rte 127  
Bocahen, NB  
Canada  
E5B 3J4

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First St., NE  
Room 1A  
Washington, DC 20426

9/04/2009

Re: Downeast LNG – Docket CP07-52

Dear Ms. Bose:

Those of us who live on the Canadian side of Passamaquoddy Bay have, for some time now, been expressing our concerns about the establishment of LNG terminals at sites proposed for Passamaquoddy Bay on the Maine side and the proposed passage of LNG tankers, as well as attending tug boats and security vessels, through Head Harbour Passage.

I continue to be saddened that our American friends remain unaware that we are protecting a particularly unique ecosystem that fuels a local "eco-economy" that draws its revenues and employment from a truly irreplaceable environment. Well over a half billion dollars in annual revenues are created here each year through tourism, aquaculture, fisheries, marine education, marine research and other resource-based industries. Thousands of jobs depend on these resources.

Senator Susan Collins recent attempts at intervention (see her recent statement at: [http://collins.senate.gov/public/continua.cfm?FuseAction=PressRoom.WeeklyColumn&ContentRecord\\_id=85705b45-802a-23ad-4751-c98090cd0906&Region\\_id=&Issue\\_id=&CFID=158405958&CFTOKEN=545568949](http://collins.senate.gov/public/continua.cfm?FuseAction=PressRoom.WeeklyColumn&ContentRecord_id=85705b45-802a-23ad-4751-c98090cd0906&Region_id=&Issue_id=&CFID=158405958&CFTOKEN=545568949)) clearly show the widely held belief in US government circles that our stance against LNG has a political motivation or that we are acting on behalf of Irving Oil, or we are against development, or we are against LNG. None of this is true. It is really all about us – the ordinary, everyday citizens of Charlotte County and our very well established and working "eco-economy". These are the folks who will suffer if LNG and associated businesses turn this special place into an industrial port.

When the very first LNG proposal hit the streets, the citizens of Charlotte County, NB engaged our politicians on all levels, to protect our vital natural assets and, in particular, to protect Head Harbour Passage which is the centre of the unique and productive ecosystem "engine" that powers the Bay of Fundy and northern Gulf of Maine. It is all about this special place; not Irving Oil, not sovereign manoeuvring, and not political tradeoffs. This place is special. This place is economically valuable. If in the near future we do not protect this ecosystem gifts then we do so at our own peril. Simply put, Quoddy is the wrong place for LNG or the development of heavy industry.

I set up a blog a year ago in an attempt to inform the world about just how special the Quoddy Region is and the vital role Head Harbour Passage plays in this and how vital it is to many endangered and important marine species including finback whales, minke whales, harbour porpoise, humpback whales, north Atlantic right whales, as well as marine birds, fish, and invertebrates of all kinds. Over 3,000 different species have been recorded here so far, many of which support our resource-based

IND25-1

IND25-1 See responses to Comments IND24-1 and CO13-9. We disagree that the project would have an adverse effect on Canada's commercial fisheries and tourism industry. We believe project impacts on these resources have been adequately addressed in the EIS and the mitigation measures proposed by Downeast and recommended by FERC are sufficient to mitigate or minimize the impacts. The project would add an LNG vessel once a week to the already existing commercial marine traffic in the waterway. Commercial marine activities and the tourism and fishing industries have co-existed in the area for many years. Ships would transit the area approximately every 5 to 7 days in winter and every 8 to 10 days in summer. With scheduling coordination and advance notification, LNG vessel traffic would not have a significant impact on eco-tourism, commercial fisheries, or marine research and education.

See response to Comment NA4-217. Early in the waterway suitability assessment process, the Coast Guard COTP initiated meetings with Transport Canada, the Departments of Foreign Affairs, Fisheries and Oceans Canada, Environment Canada, and Public Safety and Security. However, as a result of the official stance taken by the Government of Canada in regard to "innocent passage," further participation in the review process stopped. The Coast Guard performed a thorough and extensive assessment of the waterway and determined it to be suitable for the type and frequency of LNG vessels associated with the Downeast LNG Project (with the implementation of the risk mitigation measures outlined in the WSR). In the Downeast EIS, we addressed resources in Canada to the extent that they could be affected by the project based on information provided by Downeast, our own research, and information provided in the Canadian Study (SENES 2007). We have determined that any adverse impacts resulting from the construction and operation of the Downeast LNG Project can be reduced to less-than-significant levels with the implementation of Downeast's proposed mitigation measures and the additional measures we recommend in the EIS.

2009/09/10-00:04 FERC STP (Unofficial) 8/9/2009 7:15:25 PM

IND25

industries. Well [lovequoddywild.blogspot.com](http://lovequoddywild.blogspot.com) has become "wildly popular" to say the least and residents have been sending their sightings day after day for the last year.

And this summer Quoddy is at its best. The usual resident finback whales, minke whales, harbour porpoises, eagles, ospreys, falcons, tuna and more have been entertaining visitors and residents alike. But this all changed last week when humpback whales, north Atlantic right whales, Mola mola, basking sharks, schools of gigantic bluefin tuna and more moved into the area to feed on the abundant copepods, krill, and forage species. Head Harbour Passage and vicinity is literally "plugged solid" with life.

I am submitting this internet link, in the hopes that you and your staff will be able to get a true feeling for the importance of Head Harbour Passage. Please, I urge you to visit and study this site and to continue to monitor it. I will be attempting to collate the data this fall, but, in the meantime, I can assure you that you will learn a great deal about why this place is so special. The contributions from Quoddy citizens show their love for this place and how vital and important the Quoddy region truly is.

Clearly, LNG does not belong in this particular location.

The link to the blog is:

<http://lovequoddywild.blogspot.com>

The entire link for Head Harbour Passage is:

<http://lovequoddywild.blogspot.com/search/label/Head%20Harbour%20Passage>

Respectfully submitted

Arthur A. MacKay, B.Sc.

Attachment: PDF of Head Harbour Passage section at [lovequoddywild.blogspot.com](http://lovequoddywild.blogspot.com)

20100420-0011 FEDRC PDF (Unofficial) 04/19/2010

CP10-32  
CP07-52

IND26

ORIGINAL

11 Snyder Road  
Eastport, Maine, 04631  
April 10, 2010

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426  
Cc: Sen. Olympia Snowe, Sen. Susan Collins and Rep. Mike Michaud

2010 APR 19 A 11:47  
FEDERAL ENERGY  
REGULATORY COMMISSION

Dear Secretary Bose,

The threat of an LNG terminal on Passamaquoddy Bay continues. Why is it that the safety of its citizens living around Passamaquoddy Bay is of more concern to the Canadian Government than it appears to be for the United States Government?

Our shores are so close that we all live in the Hazard zones. Have any of you read what happens to people if there is an incident within the Hazard zone? We live on islands. We can't escape in 30 seconds. There are some chest-thumping politicians around who try to stir up trouble between the two countries by saying that the Canadians are getting LNG delivered and are trying to stop similar economic growth in Maine. The problem with that argument is that the tankers do not have to travel through Head Harbor Passage to get to St. John, New Brunswick. Canadians also have no problem with Maine having a terminal elsewhere in the state, where their citizens are not endangered. The US has never signed the treaty it tries to invoke regarding safe passage.

We are told risks are small. I lived in what was a small town in NJ called Middletown. We were sold on siting a Nike Missile Base because it "was safer than a gas station". Guess what? The gas station blew up, littering the body parts of workers miles around. The cause? Human error. The same county lost over 90 residents on 9/11, at their desks across the bay in Manhattan. The cause? Terrorism. The risks of such gambling are not acceptable for our children at their school desks, or elderly in their beds at the nursing home. The terminal siting safe practices standards can never be met on Passamaquoddy Bay due to its geography and topography. A terrorist could practically throw a hand grenade from either shore and hit a vessel.

Eastport is building its economy on the burst of the revival of the arts, cultural heritage tourism and the entrepreneurial activity of our schooners, whale watching, lobster industry and pleasure boating as well as the deep water port. I just volunteered at the Maine Office of Tourism Booth at an international travel and vacation show in Ottawa. Part of my pitch was the charm of the ferry which

IND26-1

IND26-1 We have conducted a thorough analysis of the potential risks of the proposed project. See results of our analysis in the Supplemental Draft EIS and in section 4.12 of the EIS. In addition, the U.S. Coast Guard's evaluation of the suitability of the proposed waterway for LNG marine traffic is discussed in section 4.12.5.5 of the EIS.

## IND26 Marged Higginson (continued)

E0100420-0011 FERC PDF (Unofficial) 04/19/2010

IND26

runs all summer from Deer Island, New Brunswick to Eastport, or via Campobello Island across the bridge to Lubec. The trip offers scenery unparalleled by the most beautiful spots anywhere in our country or Europe. (I have visited all states but Hawaii, most Canadian provinces and many European countries.) LNG tankers would hinder development and daily operation of all the industries I have mentioned: tourism, ferry transportation, lobster fisherman, pleasure boating, retirement housing.

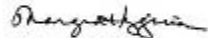
IND26-2

The residents living on Passamaquoddy Bay are being asked to take risks for a fuel which will never benefit us in this area. Even Domtar recycles a papermaking waste product to burn black liquor. It can be obtained more cheaply in the United States, without supporting countries which commit human rights violations to obtain the gas, and increase our risks to terrorism.

IND26-3

Everything one reads indicates that importing LNG is losing the luster of profitability. If an LNG terminal is such a good idea, why is it that every other potential spot on the coast of Maine has refused the overtures of big business? Tankers traveling a narrow canyon in the bay, potential for human error, terrorists, bad business investment, violation of SIGTTO, risk to thousands, hampering of existing industries: enough reason for the idea of an LNG terminal on Passamaquoddy Bay be buried ASAP.

Yours truly,

  
Marged Higginson

IND26-2 Section 4.8 of the EIS describes the potential impacts of LNG vessel transit on the regional economy and other users of the waterway.

IND26-3 The Supplemental Draft EIS and the final EIS include FERC staff's analysis of the potential risks and the environmental and socioeconomic impacts of the proposed project. The results of that analysis will be considered by the Commission in its determination whether or not to authorize the project.

20100519-4009 FERC PDF (Unofficial) 05/19/2010

IND27

Federal Energy Regulatory Commission  
 Attn: Mr. Jon Wellinghoff  
 888 First Street  
 Washington, DC 20426

Dear Sir

My word probably doesn't mean a lot but perhaps by hearing my side of the story on the proposed Liquefied Natural Gas proposals being brought forth regarding Passamaquoddy Bay, you may just ponder momentarily before giving your stamp of approval on these applications.

Ecologically, this area is a delicate mix of wildlife and plant species from the endangered Right Whale to the smallest micro organisms that create a tenuous symbiotic relationship throughout this biosphere. Over 3,000 varied species have been recorded here to date, many of which support our resource-based industries. Should this chain be interrupted, the link breaks and all are lost... forever. There are fewer and fewer pristine, tranquil regions left in the world. The reason they are being depleted is mainly through human encroachment. We have a chance to save Passamaquoddy Bay by not allowing it to become an industrial marine park. If one company is allowed in, this leaves the drawbridge down for a total onslaught that will be the death knell of this absolutely beautiful area.

IND27-1

The transporting of LNG by super tankers through Head Harbor passage into the bay is ludicrous. The navigational hazards including wind, fog, sea roll and tidal currents should negate the very thought of bringing this dangerous cargo through this treacherous channel and endangering not only plant and animal life but thousands of humans as well that call the shores their home. Not only is the moving of this volatile cargo a danger, but research shows that there are more economical and secure ways of storing liquefied gas. That would be, for one, off shore many miles from established communities. At a time when there are vast domestic natural gas resources in the eastern U.S. and demand is falling, why would, turning what could soon be designated as one of the seven natural wonders of the world into an industrial eco-wasteland? Some of these existing holding terminals are now being converted to export usage as the demand falls.

IND27-2

Thousands of jobs rely on the revenue generated from this unique ecosystem both in Canada and the U.S.A. This is an irreplaceable, clean environment. Let your legacy be that of saving life in this region and not one of leaving an insidious cancer that will lead to terminal destruction. Thank you for taking the time to ponder my thoughts and input. With respect. A very concerned citizen.

Edward E. Michener

IND27-1 Section 4.5 and 4.6 of the EIS describe the potential impact of construction and operation of the LNG terminal on wildlife and aquatic resources, and endangered and threatened species, respectively.

IND27-2 The U.S. Coast Guard's evaluation of the suitability of the proposed waterway for LNG vessel traffic is discussed in section 4.12.5.5 of the EIS. The potential for an accidental event to occur during LNG vessel transit, communities within the zones along the transit route and measures that would be in place to prevent such an event, are discussed in sections 4.12.5.3, 4.12.5.4, and 4.12.5.5 of the EIS.



20100409-5051 FERC PDF (Unofficial) 4/9/2010 11:06:44 AM

IND28

**Ronald S. Rosenfeld, M.D.**

P.O. Box 208  
281 Birch Point Road  
Perry, ME 04967

April 9, 2010

Governor John Baldacci  
1 State House Station  
Augusta ME 04333-0001

Dear Governor Baldacci,

I was disappointed reading your letter of January 29, 2010 to the commissioners of the Federal Regulatory Energy Commission. Not only is this letter contrary to your previously stated positions about respecting the integrity of the process, but it also makes assertions that are misleading or not supported by facts, data or common sense.

You write as if you are speaking for the citizens of the State of Maine. I am sure you are well aware that a large number of these citizens are opposed to this project at the proposed location, which violates the siting standards promulgated by the industry itself!

You write that the Downeast LNG Project "will provide a new source of natural gas to northern New England". You ignore the fact that price comparisons of LNG vs pipeline imports favor pipeline imports in New England. This differential can only grow as the Marcellus shale natural gas source becomes more developed, and the ongoing pipeline expansion projects are completed. I also note that few of the companies located along the current pipeline have availed themselves of their ability to use natural gas.

IND28-1

You claim the project will bring a "significant number of much needed jobs". This claim is congruent with the claims of the developer. However, the developer, and the model used, only look at the number of jobs the project might bring. They ignore the jobs the project will eliminate. The model also ignores the long-term effects on the local economy. And even the jobs it might bring to those who currently live here will be mostly limited to grubbing and site preparation. The more specialized (and high-paying) construction jobs will be filled by others. If the results here are similar to the results in other areas with similar demographics, the incoming workers will out-bid the local inhabitants for rental and permanent properties causing significant displacement of the less well-off.

IND28-2

You write "... that this delay in review and approval is due to the Commission Staff's view that currently effective U.S. Department of Transportation regulations concerning modeling of LNG spills may no longer be appropriate ..." However, a cursory review of the correspondence on file at FERC demonstrates that Downeast LNG has yet to respond to data requests of the Commission that were due NINE (9) months ago. Are you advocating that FERC should approve the project when the developer ignores FERC's requests? Such was NOT the case in Oregon.

IND28-3

If you really want to do something to help the economy in eastern Washington County, you could seriously develop and fund initiatives to promote tourism and other self-sustaining local business ventures. The Bangor Daily News recently reported that the efforts by Homeland Security to better safeguard our borders has resulted in significantly fewer tourists crossing the borders into Canada at both Calais and Lubeck. (And there has been an increase in tourists at West Quoddy Light in Lubeck). This provides a unique and timely opportunity to promote this area.

IND28-1 Project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

IND28-2 This comment references statements made by Maine Governor John Baldacci. Our evaluation of the potential impact of the project on the local economy, including temporary and permanent jobs created by the project, is included in section 4.8 of the EIS. The University of Maine study referenced in section 4.8, *Economic and Fiscal Impacts of a Proposed LNG Facility in Robbinston, Maine*, did not identify the potential negative impacts discussed in this comment.

IND28-3 Please see our evaluation of latest information related to design spills in section 4.12 of the final EIS. See response to comment NA10-1.

20100409-5051 FERC PDF (Unofficial) 4/9/2010 11:06:44 AM

IND28

● Page 2

April 9, 2010

Sincerely,



Ronald S. Rosenfeld, M.D.

cc: Maine Board of Environmental Protection  
Federal Energy Regulatory Commission

IND29

20100412-5003 FERC PDF (Unofficial) 4/9/2010 9:50 AM  
RADM BRIAN W. FLYNN, Ed.D.  
ASSISTANT SURGEON GENERAL (USPHS, RET.)  
SEVERNA PARK, MARYLAND 21146  
410-353-4768

April 9, 2010

Governor John Baldacci  
1 State House Station  
Augusta ME 04333-0001

Ref: Governor's letter of January 29, 2010 regarding Downeast LNG

Dear Governor Baldacci:

I am writing in response to your letter of January 29, 2010 on behalf of Downeast LNG to FERC Chairman Wellinghoff. Candidly, I was disappointed in both the inaccurate content and the attempted political influence in the FERC review process that the letter represents.

My life-long commitment to assuring the public's health has raised many serious questions regarding not only the FERC review process but the potential negative health impacts that *any* LNG import facilities in the Passamaquoddy Bay region represent. While there are many good reasons to be concerned about these projects, my area of special concern and expertise is promotion, protection, and enhancement of the public's health, especially in the context of emergencies, disasters, and terrorism.

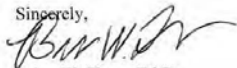
IND29-1

It appears to me that Maine has left largely unexamined the potential health and medical impact of LNG import facilities in this area of the state. Issues of serious risk assessment, availability and funding of all levels and types of care have not been assessed by the State. These should be among the State top priorities in considering these facilities.

Issues concerning the public's health are primary to many Maine and Canadian residents and are among the issues at the heart opposition to these facilities. To state that this programs enjoy strong local support is to distort the facts by omission and is misleading to FERC.

I will leave it to others to adress the letter's inaccuracies about the reasons for FERC's inability to issue a FEIS. Down East has simply not provided the necessary information required in a timely manner. Apparently, they want you to do what they can't or won't do.

Sincerely,



Brian W. Flynn, Ed.D.

cc: Maine Board of Environmental Protection  
Federal Energy Regulatory Commission

IND29-1 See response to comment CO16-2.

## IND30 Richard and Katherine A. Berry

20100412-5000 FERC PDF (Unofficial) 4/9/2010 7:02:42 PM

IND30

22 Sea View Lane  
PO Box 8  
Robbinston, ME 04671

Governor John Baldacci  
1 State House Station  
Augusta, ME 04333-001  
April 08, 2010

RE: Calais LNG terminal: FERC Docket # CP10-32  
Downeast LNG terminal: FERC Docket # CP07-52

Dear Governor Baldacci:

We are writing to you today to express our concern about LNG in Passamaquoddy Bay and your apparent disregard for a large portion of the people of our great State of Maine. You had said repeatedly that you would not become involved in the LNG debate and process, but recently you have asked FERC to hurry up the process with regard to the Downeast LNG in Robbinston. It appears to us that you have gone against your word and we see that as a Governor you lose your credibility. With that said we respectfully request that you publicly explain WHY you choose to go against your own word, WHY you would think that ALL the people of Maine are pro LNG and WHY you have disregarded a very large percentage of Maine's people. LNG has been shot down all along the Coast and finally came to rest at the end of line in Passamaquoddy Bay. Our Bay is as important to us as it is to the other communities along the coast who were able to eliminate it.

It is our understanding that the over supply of domestic natural gas reduces any further NEED. | IND30-1

It is our understanding that the FERC permitting process should be allowed to take its legally-required course without political attempts to short-circuit the process. | IND30-2

It is our understanding that our Environment laws of the State of Maine were set for a REASON.

It is our understanding that our Canadian neighbors have spoken and will not allow LNG in Passamaquoddy Bay for many of the same reasons we express. | IND30-3

It is our understanding that Passamaquoddy Bay simply cannot conform to the LNG industry best safe practices (SIGTTO) | IND30-4

These are but a few of the entire number of reasons we object to LNG in Passamaquoddy Bay.

We hope to hear from you soon.

Respectfully submitted,

/s/ Richard & Katherine A. Berry

cc: Maine Board of Environmental Protection  
FERC  
Snow, Collins, Michaud  
SPB  
file

IND30-1 Project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

IND30-2 The timeline for FERC's review of the project has not been shortened as a result of any political influence.

IND30-3 Please see response to comment CO17-2.

IND30-4 After input from the public in meetings and through correspondence, analysis by waterway users and stakeholders in the LNG working group, the PAWSA assessment, and the carrier simulation tests, the Coast Guard, a cooperating agency in the development of the Downeast EIS, has determined that the waterway may be made suitable for the type and frequency of LNG vessels associated with the Downeast LNG Project as long as the risk mitigation measures outlined in the WSR are implemented.

Although the SIGTTO siting best practices are not regulatory requirements, the design factors and terminal procedures described in the SIGTTO are consistent with the safety and security concepts used in the Coast Guard's evaluation. The Coast Guard's waterway suitability review closely paralleled SIGTTO's Quantitative Risk Assessment methodology and it referred to SIGTTO's documents throughout the process.

20100413-0066 FERC PDF (Unofficial) 04/13/2010

ORIGINAL

CP07-52-000  
IND31  
FILED  
SECRETARY OF THE  
COMMISSION

April 07, 2010

Governor John Baldacci  
1 State House Station  
Augusta, ME  
04333-0001

2010 APR 13 A 9 15  
FEDERAL ENERGY  
REGULATORY COMMISSION

Dear Governor Baldacci;

Subject: FERC / Downeast LNG and Calais LNG

I am writing to you to share with you my concern that you have decided to brake your word that you would personally stay out of the process and that you would let the formal Federal and State permitting processes work.  
I am deeply concerned that a highly respected Government Official would decide for whatever reasons to go back on your word. It was the case that we had Representatives that "their word was their bond".

I am aware that a large number of the good Citizens of the State of Maine are not in favor of either this application or your support for the application. It seems that this is the time for the majority to be heard over special interest groups.

IND31-1

As a concerned Citizen of this great North America, I ask that you come public and keep your original word and withdraw your support for this application.

Sincerely,

*E. Bishop*

Edith C Bishop  
332 Carleton Street  
St. Andrews, New Brunswick  
Canada  
ESB 1B1

cc  
Presiding Officer  
c/o Terry Hanson  
Board of Environmental Protection  
#17 State House Station  
Augusta, ME 04333-0017

cc  
✓ Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

IND31-1 Thank you for your comment.

IND32

Joseph and Lea Sullivan  
635 U. S. Route 1  
Robbinston, ME 04671

ORIGINAL FILED  
SECRETARY OF THE  
OFFICE

April 11, 2010

2010 APR 19 A 11:45

FERC Docket Number CP07-52 Downeast LNG terminal  
FERC Docket Number CP10-32 Calais LNG

FEDERAL ENERGY  
REGULATORY COMMISSION

Governor John Baldacci  
1 State House Station  
Augusta, ME 04333-0001

Dear Governor Baldacci:

Eight years ago, we helped put you into office because we trusted you to be a man of your word. That has turned out to be one of our greatest regrets and disappointments.

As members of your constituency, we are writing to you to voice our outrage with your decision to break your promise to us that you would personally stay out of the LNG process and that you would let the formal federal and state permitting processes work. It is apparent to us that the Governor of Maine and the LNG Developers have very little regard or respect for the BEP or FERC.

We also must refute your claim that you are speaking for the people of Maine regarding LNG. That is not correct. Maine citizens do not want LNG. It has been rejected out of every other location along the Maine coast where it was introduced.

According to the several leading industry analysts, North America is drowning in a domestic natural gas supply, with over 100 years of surplus. In fact, the existing US LNG import terminals have been running at only a small fraction of capacity, and with over 30 pipeline projects in play to bring supply to the Northeast, increasing availability and reducing prices here, there is no need to import more LNG. Just recently, there has been a new discovery of a natural gas supply in the St. Andrews area of Charlotte County, New Brunswick, Canada that could be added to the already existing Maritimes pipeline for Southern New England. Calais LNG and Downeast LNG are superfluous lost causes. How disgusting is it that our schools are facing cutbacks and closures because of lack of money, while millions of dollars still are being wasted on these pointless ventures?

IND32-1

The U. S. Coast Guard requires the LNG developers obtain the Canadian government's coordination and cooperation to transit into Passamaquoddy Bay. The Canadian government has repeatedly stated that it will not allow LNG tankers into the Bay. Their position has already decided the fate of this debate. Also, the Innocent Passage issue does not stand simply because the United States is not a signatory to the Law of the Sea Treaty. The U.S. Coast Guard requirement is a U. S. Homeland Security issue that is not related to innocent passage. The simplest solution to this particular problem is to move the LNG projects outside of Passamaquoddy Bay.

IND32-2

It is our unfortunate circumstance to be in a position to be adversely affected by one or both of the proposed LNG facilities in Robbinston and Calais, should either or both of them come into being. To avoid confusion, we are listing our concerns with each proposed facility under its FERC Docket Number and name.

IND32-1 Project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

IND32-2 We recognize that Canada has concerns relating to LNG vessel passage through its waters, however, the FERC has a legal obligation to continue processing Downeast's application so that all the issues can be properly documented before the Commission makes a decision on the proposal.



**Incompatibility with existing tourism industry  
Potential harm to civilians and property**

My husband and I started Katie's on the Cove Handmade Confections on Mill Cove in Robbinston in 1982. We have built this business and it is our sole source of income. Our business is predominantly a tourist-based industry serving mostly summer visitors. We also mail order our confections during the winter, mostly to our summer customers. Our business has been featured in several national travel and tourist guides such as Moon's Handbooks: Maine/Exploring Maine by Kathleen M. Brandes, and Off the Beaten Path Maine - A Guide to Unique Places by Wayne Curtis, An Explorer's Guide to Maine by Christina Tree and Nancy English, Chow Maine by Nancy English, Hull's Travel Guide. We have twice been featured as the Editor's Pick in Yankee Magazine's Travel guide to New England (2001 and 2006), and featured on Made in Maine of Maine Public Television, and several years' issues of Downeast Magazine.

We are very concerned that industrialization of the Robbinston and Passamaquoddy Bay and the construction traffic generated as a result of the proposed facility will have a severely adverse affect on our business. Traffic and industrialization will prevent visitors to our retail shop and will deter tourism in this area. We are particularly concerned that, due to the congestion of construction vehicles traveling U. S. Route 1 during the construction of the proposed Downeast LNG facility, national travel clubs such as the AAA and the ALA will advise travelers to avoid this area, severely impacting our retail shop revenue. Our business is located directly across U. S. Route 1 from the site of the proposed Downeast LNG facility, within 500 yards from the storage tanks and the dock. We are very concerned that an explosion or accident at either of these two areas during business hours could incinerate our business, our customers and us, as well as the surrounding wildlife. Since our business is on the shoreline of Mill Cove in Robbinston, it is also in the federal Hazard Zones (so-called 'Zones of Concern') around the LNG vessel. We are concerned that an explosion or accident could incinerate our business and our customers, ourselves, and any surrounding wildlife. Not only would the outcomes from these events be catastrophic, the FEAR of the possibility of such a catastrophe would adversely affect our well being as well as the enjoyment of the area, and particularly our business. Since the announcement in 2005 of the proposed Downeast LNG facility to be built on Mill Cove in Robbinston, we have been exploring many different possibilities to pursue should the facility be built. When discussing the possibility of the sale of the property with potential buyers, its value is questioned and lowered because of the cloud of the proposed LNG facility hanging over Mill Cove.

The Mill Cove shoreline and beach is a highly scenic area that attracts many tourists during the summer season. A highly attractive feature of Mill Cove is Pulpit Rock, which is featured in many tourist publications. The only public access to Pulpit Rock is directly across the road from our business. Several local schools send classes of children to explore the beach and shoreline of Mill Cove. If the proposed Downeast LNG facility were to be built, the public's access and enjoyment of this area would be ended. In the event of an explosion or accident of the facility, hundreds of lives could be lost.

The local tourist industry is based on the existing state and uses of the waters and appreciation of the area for its highly scenic and undeveloped character. An LNG facility would change that, and would degrade the scenic natural environment and the current recreational and aesthetic uses of the area, and drive tourists away in the process.

IND32-3

IND32-4

IND32-5

IND32-6

IND32-3 Our evaluation of the potential impact of construction and operation of the project on tourism and the local economy is included in section 4.8 of the EIS. In section 4.9.1 of the EIS, we evaluate potential impact on local roadways, including U.S. Route 1, during construction and operation. Construction and operation would result in additional traffic, which could impact local businesses, including Katie's on the Cove directly across from the proposed site. Downeast has proposed measures to minimize that impact, including transporting workers from dispersed off-site parking areas to the terminal site during construction by van and/or bus to minimize on-site construction parking requirements and worker trips to the construction site, and construction of turning lanes on both the north and southbound lanes of U.S. Route 1 at the entrance to the terminal site to ensure safe ingress and egress of construction and operations traffic. Finally, under its proposed Host Community Benefits Agreement, Downeast has agreed to compensate owners of any affected business in the town that was in operation as of July 11, 2005, and that is determined by an independent arbitrator to have been adversely impacted solely by the construction and operation of the project. Downeast has also agreed to compensate residential property owners whose property abuts the project boundary, is located immediately across U.S. Route 1 from the terminal site, or is on the north shoreline of Mill Cove and faces the shoreline portion of the terminal site. Property owners would receive a one-time impact fee of \$25,000 or would be compensated for the reduced market value of properties that were sold.

IND32-4 The FERC staff's evaluation of reliability and safety, including consequences in the event of an LNG release at the terminal site and LNG vessel, is included in section 4.12 of the EIS.

IND32-5 Downeast would be required to prevent unauthorized access to the LNG terminal facilities in accordance with a Facility Security Plan (see section 4.12.8 of the EIS) which may limit public access to areas of the shoreline. This would be a long-term impact if the Project were authorized. The intent of security measures that would be part of the Facility Security Plan ultimately is public safety. See also response to comment NA27-1.

IND32-6 Comment noted. Section 4.7.3 and 4.8 of the EIS describe the potential impact of construction and operation of the LNG terminal on recreational use of the area and tourism, respectively.

## IND32 Joseph and Lea Sullivan

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Page 3 Joseph and Lea Sullivan letter of April 11, 2010  
FERC Docket Number CP07-52 Downeast LNG terminal

IND32

### Environmental Harm

Mill Cove is a staging area for migrating waterfowl, eagles, birds and other marine and terrestrial wildlife. It is a wintering over area for deer and moose. American eels migrate through Mill Cove and into tributaries and lakes that flow into Mill Cove. In early 2006, the American Eel was considered to be placed on the Threatened or Endangered Species lists, due to dwindling numbers along the entire eastern seaboard. Although not added at that time, the decision was made to continue to monitor them to determine if the need to consider listing them should be considered in the future. Eels migrate at night, as do many other marine species, and the lights from the dock of the proposed facility could greatly impact the migration/reproduction of those species.

IND32-7

IND32-7 Comment noted. Section 4.5 and 4.6 of the EIS describe the potential impact of construction and operation of the LNG terminal on wildlife and aquatic resources, and endangered and threatened species, respectively.

Mill Cove is a well-known and documented lobster nursery area. The lobster larvae are carried along the entire Maine coastline by the currents, where they settle and develop into lobsters. The intake of tens of millions of gallons of ballast water and engine cooling water per ship could remove many lobster larvae from the area, and cause the total collapse of the entire lobster industry in the state of Maine.

We are concerned that the LNG facility and the ships would harm the wildlife and cause the wildlife to avoid and leave Mill Cove and surrounding area.

Page 4 Joseph and Lea Sullivan letter of April 11, 2010  
FERC Docket Number CP10-32 Calais LNG

IND32

**Incompatibility with existing tourism industry  
Potential harm to civilians and property**

My residence for 29 years was on Mill Cove in Robbinston where, in 1982, I founded and operated a tourist-based confectionery business for the past 28 years (to the present). In 2006, due to health reasons, my husband and I relocated, and we now live within the village of Robbinston. We still own and operate our business on Mill Cove, which is our sole source of income.

Our business is predominantly a tourist-based industry serving mostly summer visitors. We also mail order our confections during the winter, mostly to our summer customers.

Our business has been featured in several national travel and tourist guides such as Moon's Handbooks: Maine/Exploring Maine by Kathleen M. Brandes, and Off the Beaten Path □ Maine - A Guide to Unique Places by Wayne Curtis, An Explorer's Guide to Maine by Christina Tree and Nancy English, Chow Maine by Nancy English, Hull's Travel Guide. We have twice been featured as the Editor's Pick in Yankee Magazine's Travel guide to New England (2001 and 2006), and featured on Made in Maine of Maine Public Television, and several years' issues of Downeast Magazine.

We are very concerned that industrialization of the Red Beach area of Calais and Passamaquoddy Bay and the construction traffic generated as a result of the Calais LNG proposed facility will have a severely adverse affect on our business and on the value of our home. Traffic and industrialization will prevent visitors to our retail shop and will deter tourism in this area. We are concerned that, due to the congestion of construction vehicles traveling U. S. Route 1 during the construction of the proposed Calais LNG facility, national travel clubs such as the AAA and the ALA will advise travelers to avoid this area, severely impacting our retail shop revenue. These impacts may be in addition to impacts from the proposed Downeast LNG facility, and either or both would be harmful to our business.

Because our home now is on the shoreline of a relatively narrow part of the St. Croix River where it empties into Passamaquoddy Bay, we are in the federal Hazard Zones (so-called 'Zones of Concern') as the LNG vessels transit the river toward the proposed Calais LNG facility. The St. Croix River is an international boundary between the United States and Canada, so these huge vessels will be traveling on the U. S. side of the international boundary, therefore, much closer to our home. We are very concerned for our personal safety and the safety of our home. An explosion or accident could incinerate our home and its occupants. As these vessels traverse Passamaquoddy Bay and prepare to enter the St. Croix River, the Hazard Zones will also include our business and retail shop on Mill Cove. We are concerned that an explosion or accident could incinerate our business and our customers. We are also concerned that not only would such a catastrophe from these vessels adversely affect our well being as well as our enjoyment of the area and, particularly, our home, and business, the FEAR of the possibility of such a catastrophe will adversely affect our well being as well as our enjoyment of the area, and particularly, our home, and business. I am also particularly concerned for the welfare of my elderly parents who own a home and reside on U. S. Route 1 across that road from the St. Croix River where it empties into Passamaquoddy Bay. An explosion or accident could incinerate their home and them.

We are very concerned that we would not be able to sell our home due to the safety concerns of LNG vessel passage directly in front of our home if the Calais LNG facility is built. Since the announcement in 2005 of the proposed Downeast LNG facility to be built on Mill Cove in Robbinston, we have been exploring many different possibilities to pursue should the facility be built. When discussing the possibility of the sale of the property with potential buyers, its value is questioned and lowered because of the cloud of the proposed LNG

Page 5 Joseph and Lea Sullivan letter of April 11, 2010  
FERC Docket Number CP10-32 Calais LNG

IND32

facility hanging over Mill Cove. We feel certain that the proposed LNG facility in Calais and our home's location within the areas of concern will elicit the same response when we try to sell this home. Of course we are concerned that if the Downeast LNG facility is built, then the way is open for the Calais facility to be built as well. Location of this proposed facility in Calais or the proposed facility in Robbinston would require us to move from the area. Moving from the area would be a significant hardship for us. Our home, property and business are our greatest assets. We have been self-employed in Washington County for the past 31 years; we do not have a retirement fund for our old age. If the financial value of our home, property and business are severely impacted, possibly by both facilities, we will be faced with economic catastrophe.

**Environmental Harm**

We are very concerned that the waves and turbulence caused by the transit of the LNG vessels as they pass by St. Croix Island to the proposed Calais LNG facility will erode the fragile shoreline of St. Croix Island National Park. Erosion is already a serious concern of the Park Service, and there has been a state of the art erosion monitoring system put in place recently to watch this problem closely. We are concerned that this vessel-caused erosion could destroy historical artifacts and forever destroy the significance of the peaceful site as a monument to the souls that are buried there. St. Croix Island is an international site marking the winter settlement of Samuel DeChamplain, where many of the party perished and were buried on site.

We are very concerned that the waves and turbulence caused by the transit of the LNG vessels as they enter and leave the docking area of the proposed Calais LNG facility, will erode the fragile shoreline of St. Croix along the edge of the Devil's Head Hiking Park. We are concerned that this erosion could destroy Native American historical artifacts and petroglyphs along that shoreline, losing them forever.

We are avid birders and enjoy observing birds including bald eagles and other wildlife along the Devil's Head hiking area on St. Croix River and Passamaquoddy Bay. We are very concerned that the facility and ships would harm the wild life and cause wildlife to avoid the Devil's Head area and this shoreline.

As hard-working small business owners, we have been shocked, angered, saddened and our entrepreneurial spirit finally crushed, to learn that we are of absolutely no value to our neighbors, our Governor and State officials, or to our Federal Senators and Representatives. We are just expendable collateral damage.

Sincerely,

/s/ Joseph Sullivan

/s/ Lea Sullivan

*Joseph Sullivan*  
*Lea Sullivan*

Joseph and Lea Sullivan  
535 U. S. Route 1  
Robbinston, Maine 04671

Cc:

Presiding Officer

/s/ Terry Hanson

Board of Environmental Protection

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission

IND32

Page 6 Joseph and Lea Sullivan letter of April 11, 2010  
FERC Docket Number CP07-52 Downeast LNG terminal  
FERC Docket Number CP10-32 Calais LNG

Electronic copies sent to:  
Sen. Olympia Snowe  
Sen. Susan Collins  
Rep. Mike Michaud  
Save Passamaquoddy Bay

ORIGINAL

CP10-32  
CP07-52

IND33

FILED  
SECRETARY OF THE  
COMMISSION

2010 APR 19 A 11:47

FEDERAL ENERGY  
REGULATORY COMMISSION

11 Snyder Road  
Eastport, Maine, 04831  
April 10, 2010

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426  
Cc: Sen. Olympia Snowe, Sen. Susan Collins and Rep. Mike Michaud

Dear Secretary Bose,

The threat of an LNG terminal on Passamaquoddy Bay continues. Why is it that the safety of its citizens living around Passamaquoddy Bay is of more concern to the Canadian Government than it appears to be for the United States Government?

IND33-1

Our shores are so close that we all live in the Hazard zones. Have any of you read what happens to people if there is an incident within the Hazard zone? We live on islands. We can't escape in 30 seconds. There are some chest-thumping politicians around who try to stir up trouble between the two countries by saying that the Canadians are getting LNG delivered and are trying to stop similar economic growth in Maine. The problem with that argument is that the tankers do not have to travel through Head Harbor Passage to get to St. John, New Brunswick. Canadians also have no problem with Maine having a terminal elsewhere in the state, where their citizens are not endangered. The US has never signed the treaty it tries to invoke regarding safe passage.

We are told risks are small. I lived in what was a small town in NJ called Middletown. We were sold on siting a Nike Missile Base because it "was safer than a gas station". Guess what? The gas station blew up, littering the body parts of workers miles around. The cause? Human error. The same county lost over 90 residents on 9/11, at their desks across the bay in Manhattan. The cause? Terrorism. The risks of such gambling are not acceptable for our children at their school desks, or elderly in their beds at the nursing home. The terminal siting safe practices standards can never be met on Passamaquoddy Bay due to its geography and topography. A terrorist could practically throw a hand grenade from either shore and hit a vessel.

Eastport is building its economy on the burst of the revival of the arts, cultural heritage tourism and the entrepreneurial activity of our schooners, whale watching, lobster industry and pleasure boating as well as the deep water port. I just volunteered at the Maine Office of Tourism Booth at an international travel and vacation show in Ottawa. Part of my pitch was the charm of the ferry which

IND33-1 The Coast Guard's evaluation of the suitability of the proposed waterway for LNG marine traffic is discussed in section 4.12.7.6 of the EIS, including intentional events.

IND33

runs all summer from Deer Island, New Brunswick to Eastport, or via Campobello Island across the bridge to Lubec. The trip offers scenery unparalleled by the most beautiful spots anywhere in our country or Europe. (I have visited all states but Hawaii, most Canadian provinces and many European countries.) LNG tankers would hinder development and daily operation of all the industries I have mentioned: tourism, ferry transportation, lobster fisherman, pleasure boating, retirement housing.

IND33-2

The residents living on Passamaquoddy Bay are being asked to take risks for a fuel which will never benefit us in this area. Even Domtar recycles a papermaking waste product to burn black liquor. It can be obtained more cheaply in the United States, without supporting countries which commit human rights violations to obtain the gas, and increase our risks to terrorism.

Everything one reads indicates that importing LNG is losing the luster of profitability. If an LNG terminal is such a good idea, why is it that every other potential spot on the coast of Maine has refused the overtures of big business? Tankers traveling a narrow canyon in the bay, potential for human error, terrorists, bad business investment, violation of SIGTTO, risk to thousands, hampering of existing industries: enough reason for the idea of an LNG terminal on Passamaquoddy Bay be buried ASAP.

IND33-3

Yours truly,

  
Marged Higginson

## IND33 Marged Higginson

IND33-2 Section 4.8 of the EIS describes the potential impacts of LNG vessel transit on the regional economy and other users of the waterway.

IND33-3 The Supplemental Draft EIS and the final EIS include FERC staff's analysis of the potential risks and the environmental and socioeconomic impacts of the proposed project. The results of that analysis will be considered by the Commission in its determination whether or not to authorize the project.



IND34

Federal Energy Regulatory Commission  
Attn: Mr. Jon Wellinghoff  
888 First Street  
Washington, DC 20426

Dear Sir

My word probably doesn't mean a lot but perhaps by hearing my side of the story on the proposed Liquefied Natural Gas proposals being brought forth regarding Passamaquoddy Bay, you may just ponder momentarily before giving your stamp of approval on these applications.

Ecologically, this area is a delicate mix of wildlife and plant species from the endangered Right Whale to the smallest micro organisms that create a tenuous symbiotic relationship throughout this biosphere. Over 3,000 varied species have been recorded here to date, many of which support our resource-based industries. Should this chain be interrupted, the link breaks and all are lost...forever. There are fewer and fewer pristine, tranquil regions left in the world. The reason they are being depleted is mainly through human encroachment. We have a chance to save Passamaquoddy Bay by not allowing it to become an industrial marine park. If one company is allowed in, this leaves the drawbridge down for a total onslaught that will be the death knell of this absolutely beautiful area.

IND34-1

The transporting of LNG by super tankers through Head Harbor passage into the bay is ludicrous. The navigational hazards including wind, fog, sea roll and tidal currents should negate the very thought of bringing this dangerous cargo through this treacherous channel and endangering not only plant and animal life but thousands of humans as well that call the shores their home. Not only is the moving of this volatile cargo a danger, but research shows that there are more economical and secure ways of storing liquefied gas. That would be, for one, off shore many miles from established communities. At a time when there are vast domestic natural gas resources in the eastern U.S. and demand is falling, why would , turning what could soon be designated as one of the seven natural wonders of the world into an industrial eco-wasteland? Some of these existing holding -terminals are now being converted to export usage as the demand falters.

IND34-2

IND34-3

Thousands of jobs rely on the revenue generated from this unique ecosystem both in Canada and the U.S.A. This is an irreplaceable, clean environment. Let your legacy be that of saving life in this region and not one of leaving an insidious cancer that will lead to terminal destruction. Thank you for taking the time to ponder my thoughts and input. With respect. A very concerned citizen.

Edward E. Michener

IND34-1 Section 4.5 and 4.6 of the EIS describe the potential impact of construction and operation of the LNG terminal on wildlife and aquatic resources, and endangered and threatened species, respectively.

IND34-2 The Coast Guard's evaluation of the suitability of the proposed waterway for LNG vessel traffic is discussed in section 4.12.7.6 of the EIS. The Coast Guard determined that the hydrographic characteristics of the waterway are suitable to sustain deep draft vessel movement and the simulation tests and traffic studies confirm the transit and maneuvers are feasible for the design range of LNG carriers anticipated.

IND34-3 Section 3 of our EIS presents our evaluation of potential alternatives to the proposed project. Project need will be considered by the Commission in its determination whether or not to authorize the project. However, the market ultimately will determine the viability of the proposed project.

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IND35

Jody McCaffree  
PO Box 1113  
North Bend, OR 97459

February 22, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20428

**RE: FERC LNG Hazard Report "Recommended Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills"- Examining potential changes to LNGFIRE3. Docket No. AD13-4-000**

Dear Ms. Bose:

On January 23, 2013, FERC staff issued a report examining potential changes to LNGFIRE3, the solid flame model used for predicting radiant heat from liquefied natural gas pool fires on land. The review specifically addresses experimental data from the Phoenix large scale fire tests on water conducted by Sandia National Laboratories between 2008 and 2011 and from the Montoir large scale fire test over land conducted by Gaz de France in 1989. The 1987 Department of Energy testing that was done in Nevada should also be considered along with various other studies and data (See Exhibits A-D).

30 days is not a sufficient time frame for a serious review of these changes. FERC should seek expert advice from various independent hazard experts and give them ample time to conduct the necessary analysis and review. We all know that models can be designed to favor one outcome over another. In other words, models can be essentially reverse engineered. This is especially true when the models have been commissioned by industries that stand to gain significantly in monetary terms. There needs to be enough adequate review of this in order to make sure that is not the case here.

The U.S. Department of Energy report to Congress, "*Liquefied Natural Gas Safety Research*,"<sup>1</sup> completed in May of 2012 seems to indicate that the current approved LNG hazard models are not that far off. Based on the data collected from the large-scale LNG pool fire tests conducted, thermal (fire) hazard distances to the public from a large LNG pool fire will decrease by at least 2 to 7 percent compared to results obtained from previous studies. In spite of this slight decrease, people up to a mile away are still at risk of receiving 2nd degree burns in 30 seconds should a LNG pool fire develop due to a medium to large scale LNG breach event. (See Exhibit B)

We need to make sure we get this right since a lot of people could be put in jeopardy if we don't. I would like to ask that the FERC consult with a vast array of independent and unbiased experts on this including but not limited to those listed below before proceeding further:

<sup>1</sup> U.S. Department of Energy report to Congress, "*Liquefied Natural Gas Safety Research*" - May 2012.  
[http://www.fossil.energy.gov/programs/oil/gas/storage/publications/DOE\\_LNG\\_Safety\\_Research\\_Report\\_To\\_Congress.pdf](http://www.fossil.energy.gov/programs/oil/gas/storage/publications/DOE_LNG_Safety_Research_Report_To_Congress.pdf)

IND35-1

IND35-1 FERC staff solicited comments on the report from various subject matter experts, including staff of Sandia National Laboratories, members of the American Institute of Chemical Engineering (AIChE), Dr. Jerry Havens, and many other subject matter experts in industry, academia, government agencies, and consulting. No comments were received that would negate the findings of the report. See response to comment NA4-198 and IND36-1.

20130222-5151 FERC PDF (Unofficial) 2/22/2013 4:57:22 PM

IND35

**Sandia National Laboratories**

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**Dr. Jerry A. Havens**

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Sincerely,

*/s/ Jody McCaffree*

Jody McCaffree

cc: PF12-7-000 (Jordan Cove Energy Project) ; PF12-18-000 (Oregon LNG) ; CP07-52-000 (Downeast LNG Project)

IND36

J E S Venart, PEng  
119 Turkey Trail Road  
Elgin, NB, E4Z 2K1  
March 6, 2013

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Dear Ms Bose:

Re: Comments on Recommended

Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills.

Docket Numbers: AD13-4, CP07-52-000, CP07-53-000, and CP07-53-001

I enclose my comments on Recommended Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills. I apologise for the delay in my response but I have been ill and a series of technical glitches related to file retrieval on my computer was partly responsible. The letter from Rebecca Boucher of February 22, 2013 will have explained the circumstances.

The document, "Parameters for Solid Flame Models for Land Based Liquefied Natural Gas Spills", was prepared by FERC staff using a MathCad representation of the LNGFIRE3 computer code. The model constructed enables an examination of the influence of various assumed factors affecting the far-field radiant exposure resulting from circular or rectangular land based LNG fires. In particular it examines the effect of altering the LNGFIRE3 model based on SNL's recommendations regarding LNG pool fire modeling over water and on data provided by the largest LNG pool fire tests on land (Gaz de France Montoir tests) or water (SNL Phoenix tests). It also allowed examination of changing variables relative to flame height to diameter, flame drag, wind speed with elevation, but not however any consideration of flame envelopment due to aerodynamic effects of flame/tank/wind interactions. In addition as the authors of the FERC Report state many times "...the SPMs are averaged values and are largely influenced by the more abundant data recorded for small scale fires..." There is on this basis alone reason for concern, especially re burning rate, flame height to diameter, and most importantly the lack of any referral to specific data for tank-top fires. In addition there has been no consideration of the potential extended long term knock-on effects, i.e. concrete spalling and failure, as was seen in the concrete bund deterioration

IND36-1

IND36-1 See response to comment NA4-198. As discussed in "Recommended Parameters for LNG Pool Fires on Land", LNGFIRE3 has been verified and validated for relevant LNG pool fires, including the largest pool fires on land conducted to date. LNGFIRE3 is a semi-empirical model that is based on an assumed cylindrical fire shape and constant surface emissive power that utilizes a correlation for flame height based on flame diameter and burning characteristics. This is a common and well proven methodology used in the industry. LNGFIRE3 also takes into account flame tilt and drag from wind effects. The correlations are based on LNG pool fire data up to 35m in diameter, which is typically in the range of plant impoundments, and is the largest published LNG pool fire test conducted on land. The largest published pool fire that would be within the range of a tank top fire is an 80m diameter jet fuel fire conducted by Japan. However, this data is not pertinent or appropriate to use because jet fuel has very different burning characteristics (e.g. smoke generation). Sandia National Laboratories recently conducted large LNG pool fire tests in the same range, which have also been evaluated under the referenced report. As discussed, while the Sandia National Laboratory experimental results are not directly comparable for evaluating LNG pool fire models on land, the results show important trends in LNG pool fires of this size. Therefore, although there have not been any LNG tank top fire tests to validate any LNG pool fire model, there has been an abundance of LNG and other test data that provide clear trends and allow conclusions to be drawn with a high degree of confidence. This data was evaluated using statistical performance measures (SPMs) on both an average basis as well as individually. The SPMs and individual comparisons to experimental tests indicate that the semi-empirical relationships are generally conservative and provide confidence in the LNGFIRE3 results.

History of storage tank top fires indicates the storage tank would fail above the liquid line but remain intact below the liquid line due to the insulating qualities of the liquid within the storage tank. As discussed in Section 4.12.5, assuming this failure sequence would not significantly change the thermal radiation results. As a further measure, FERC staff has recommended a structural integrity analysis of the full containment tank outer containment be undertaken under ACI 376 assuming a tank top fire. In addition, a tertiary barrier is being proposed for additional containment.

IND36

and failures surrounding the Buncefield tanks in that accident<sup>1</sup>. It is well known that the extinguishment of large tank-top fires is extremely difficult and indeed most very large tank fires have had to have been allowed to burn themselves out — a process that may take 20 to 30 hours<sup>2</sup>. During this period the usual steel wall containment of the fuel oil tanks have failed and the flaming tank contents discharged into the containing bund. It is doubtful that the tertiary concrete containment of an LNG tank would not also fail with disastrous consequences since LNG has similar mass burning rates; i.e. 0.11 to 0.16.

IND36-1  
cont'd

While LNGFIRE3 in this study was stated to under-predict the mass burning rate, flame length, and the mean surface emissive power (SEP) for large scale LNG fire tests, predicted distances to radiant heat levels were still predicted to be in close agreement with the measured values from experiments based on both land and water. FERC staff concluded from this that LNGFIRE3, as currently prescribed by 49 CFR Part 193, is appropriate for modelling thermal radiation from LNG pool fires on land and is suitable for use in siting on-shore LNG facilities. Its appropriateness to the consideration of tank-top fires was not mentioned. Furthermore LNGFIRE3 does not predict mass burning rate, flame length, nor SEP. It is used to estimate safe radiation limits of exposure to possible accidental fires. The MathCad model that was developed to emulate the LNGFIRE3 computer code may be said to have been used to examine the sensitivity of the various assumed parameters to the resulting output.

IND36-2

Thus I cannot agree with the conclusions reached by the FERC staff examination nor can I agree that LNGFIRE3 is an appropriate model on which to base safe siting distances within and without an LNG facility. My reasons for this disagreement have been stated in the paper presented at the 2011 AIChE Spring Meeting (March 15) in Chicago attached<sup>3</sup>. In addition previously (June and October 2009) I explicitly had presented my detail reasons for disagreement to the FERC EIA for the DownEast LNG facility<sup>4</sup>.

IND36-3

First and foremost LNGFIRE3 has not been verified for tank-top fires of any kind. LNGFIRE3 has also not been verified for any land based LNG pool fires greater in size than 35 m in diameter. Some data on

IND36-2 See response to comment IND36-1 and NA4-198.

IND36-3 See response to comment IND36-1 and NA4-198.

<sup>1</sup> The Buncefield Major Incident Investigation Report, The Buncefield Incident 11 December 2005, Volume 1, Crown Copyright 2008.

<sup>2</sup> Henry Persson, Anders Lönnemark, Tank Fires, Review of fire incidents 1951–2003, BRANDFORSK Project 513-021, SP Report 2004:14.

<sup>3</sup> James Venart, LNG Tank-top fires and Radiation Exclusion Zones, AIChE Spring Meeting Chicago, 2011.

<sup>4</sup> Comments of J E S Venart, PEng, PhD on FERC Draft Environmental Impact Statement for Downeast LNG, Docket No. CP07-52 et al. (Jun. 15, 2009), FERC Accession No. 20090707-5023(22040234) and Comments of J E S Venart, PEng, PhD, In Response to Response to Downeast Comments and Report regarding Thermal Radiation and Vapor Dispersion Calculations, Docket No. CP07-52 et al. (Oct. 29, 2009), FERC Accession No. 20091124-5066(23041052).

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IND36

actual small scale (10.6 m diameter x 3 m high<sup>5</sup>) LNG tank-top fires does exist but the data remains inaccessible despite repeated requests for access due to stated confidentiality concerns! The central issue here is with the amount and significance of the extent of fire/wind/tank/lip interaction. Surface heat fluxes in excess of 250kW/m<sup>2</sup> are predicted on the lee lip of the tank using the FDS model we employed. This value is over seven times greater than the design value for high strength concrete<sup>6</sup>. As had been pointed out in my previous submission should a tank-top fire result in a loss of tank containment then a pool fire of much greater extent could result. Thus a facility once approved on the basis of a presumed contained tank-top fire would lose its acceptability and the public put at risk to say nothing of the plant. And so, though we may speculate relative to the influence of its radiation our assessments are just that, speculations based upon our best available knowledge and very limited modelling and experimental verification. It seems to me a travesty that the firms that would most benefit from an accurate assessment of the radiation risk from such a fire are the very ones that refuse to divulge their data and observations for use in assessing the public risk and the vulnerability of plant and structure.

I thank you for your consideration of this material.

Yours very truly,

J E S Venart, PEng

IND36-3  
cont'd

<sup>5</sup> Cleaver, P, Johnson, M and Ho, B (2007) A summary of some experimental data on LNG safety, Journal of Hazardous Materials 140, 429-438.

<sup>6</sup> J Rozener, D Salvatore, The Fire Resistance of Concrete Structures of a Typical LNG Tank, Structural Engineering International, 1/2007, Reports pp. 61-67.